

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MELISSA KAYE, M.D.,

Plaintiff,

INDEX NO.: 18-CV-12137

-against-

HEALTH AND HOSPITALS CORPORATION; ELIZABETH FORD;  
ABHISHEK JAIN; PATRICIA YANG; and JONATHAN WANGEL,  
et al.,

Defendants.

-----X

Remote Deposition  
New York, New York 11716

September 30, 2021  
10:09 a.m.

DEPOSITION of JONATHAN WANGEL, a Defendant  
herein, taken by the Plaintiff, held at the  
above-mentioned time and place, before KIARA  
MILLER, a Notary Public of the State of New  
York.

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2     A P P E A R A N C E S:

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4             THE LAW OFFICES OF SPECIAL HAGAN  
5             Attorney for Plaintiff  
6             196-04 Hollis Avenue  
7             Saint Albans, New York 11412

6

BY:   SPECIAL HAGAN, ESQ.

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8

9             NEW YORK CITY LAW DEPARTMENT  
10            Attorney for Defendants  
11            100 Church Street  
12            New York, New York 10007

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12            BY:   DONNA CANFIELD, ESQ.

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F E D E R A L S T I P U L A T I O N

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IT IS HEREBY STIPULATED AND AGREED by  
and between the counsel for the respective  
parties hereto, that the filing, sealing, and  
certification of the within deposition shall be  
and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the form of  
the question shall be reserved to the time of  
trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be signed before  
any notary public with the same force and  
effect as if signed and sworn to before this  
court.

1 J. WANGEL

2 J O N A T H A N W A N G E L, after having first  
3 been duly sworn by a Notary Public of the State of  
4 New York, was examined and testified as follows:

5 COURT REPORTER: Please state  
6 your name for the record.

7 THE WITNESS: Jonathan Wangel.

8 COURT REPORTER: Please state  
9 your address for the record.

10 THE WITNESS: 55 Water Street,  
11 Manhattan, New York 10041.

12 EXAMINATION BY

13 MR. HAGAN:

14 Q Good morning, Mr. Wangel. How are  
15 you?

16 A Good morning. How are you?

17 Q There's a lawsuit filed by Dr.  
18 Kaye, you are aware of that; am I right?

19 A Yes.

20 Q So, Mr. Wangel, I'm sure you've  
21 been deposed before, but I just want to make  
22 sure for the record you have the court  
23 admonitions before we start.

24 COURT REPORTER: Sorry. When  
25 you speak, I can't hear you that

1 J. WANGEL

2 well.

3 (Technical difficulties.)

4 Q Mr. Wangel, I'm here deposing you  
5 here today because of Dr. Kaye's lawsuit  
6 against you a few other named defendants.  
7 You are aware of that, right?

8 A Yes.

9 Q So I'm sure you've been deposed  
10 before, your an attorney. Just the typical  
11 admonitions of course only one of us can  
12 speak at a time. And I think you're  
13 probably aware that you can give verbal  
14 responses. No nodding of the head or  
15 uh-huh, just yes or no or passing of an  
16 appropriate -- or I don't know or I don't  
17 recall. Are you clear about that?

18 A Yeah.

19 Q You are aware that you're  
20 testifying under oath today; is that right?

21 A Yes.

22 Q If, in fact, you need me to repeat  
23 a question, please do, please ask me to  
24 repeat the question. If you don't hear it  
25 the first time or you don't understand it,

1 J. WANGEL

2 please make sure that you let me know and I  
3 will go over it again. Is that okay?

4 A Yes.

5 Q Mr. Wangel?

6 A Yes.

7 Q Now, in the event that you need to  
8 take a break, please make sure that you  
9 answer the question first, then if you need  
10 to take a break. If you'd like to have a  
11 lunch, please let me know how long the lunch  
12 break hour is or the lunch break is; is that  
13 clear?

14 A Yes.

15 Q I guess just some general  
16 questions. Have you had anything, have you  
17 taken any medication that would impair your  
18 ability to testify truthfully today?

19 A No.

20 Q Have you had any medications in  
21 the last 24 hours?

22 MS. CANFIELD: Objection.

23 A No.

24 Q You haven't had any alcoholic  
25 beverages in the last 24 hours?

1 J. WANGEL

2 A No.

3 Q So I questions I want to ask you  
4 some general questions. What did you do to  
5 prepare for today's deposition?

6 A Some prep with Ms. Canfield.

7 Q When did that take place?

8 A Sometime last week if I recall  
9 correctly.

10 Q And how many times did you meet  
11 with Ms. Canfield?

12 A Over what time period are you  
13 talking about? In preparation for this, or?

14 Q In preparation for this  
15 deposition.

16 A Six months.

17 Q Did you have --

18 A Actually -- actually, sorry.  
19 Twice I believe -- Ms. Canfield once.  
20 (Inaudible). I can't remember when and what  
21 though it was.

22 Q And had you had any phone  
23 conversations with Ms. Canfield with  
24 preparation for today's deposition?

25 A Yes.

1 J. WANGEL

2 Q When were those?

3 A That would be the same prior.

4 Q Just some background information  
5 Mr. Wangel. What's your highest level of  
6 education?

7 A Law school?

8 Q Where did you go to law school?

9 A New York Law School.

10 Q When did you graduate?

11 A 2003.

12 Q So, Mr. Wangel, we are saying you  
13 graduated from New York law school in 2003.  
14 Just for the record, what is your full name?

15 A Jonathan Wangel.

16 Q Do you have a middle name?

17 A I do. It's Corey, C-O-R-E-Y.

18 Q Have you gone by anymore other  
19 names?

20 A No.

21 Q Besides John Corey Wangel?

22 A No.

23 Q When you graduated from law  
24 school, where did you work? What was your  
25 first job?



1 J. WANGEL

2 A My first place of employment was  
3 the New York City Department of Health and  
4 Mental Hygiene.

5 Q And in what capacity were you  
6 working there?

7 A I worked in the general  
8 counselor's office and advocate's office.

9 Q Could you repeat yourself please.

10 A The general counsel's office.

11 Q As what?

12 A Advocate's offices.

13 Q What was your civil service title?

14 A Agency attorney.

15 Q What was your office title?

16 A Title back then, I don't remember  
17 of what. Office title when I was hired, I  
18 don't actually remember. At some point I  
19 became the deputy director, that was an  
20 in-house title. Probably like associate  
21 counselor, pretty generic. I don't remember  
22 exactly when it was.

23 Q When did you become the deputy  
24 director of the unit?

25 A Hard to say exactly. A couple

1 J. WANGEL

2 years after I started.

3 Q Would you say that it would have  
4 been around 2005?

5 A Best guess, yeah. Hard to say  
6 exactly.

7 Q What was your next position after  
8 you were deputy director of the unit?

9 A Next position in terms of?

10 Q Within the -- first of all, how  
11 did you stay in the department of health?

12 A I was in the health department  
13 from a civil service title in November of  
14 2013 -- I'm sorry. What year? November of  
15 '03 through December of '15.

16 Q I'm assuming you've had more than  
17 one position there so. You mentioned that  
18 you were an attorney in the advocate's  
19 office.

20 Did you have any number of  
21 positions between that and the deputy  
22 director position?

23 A Well, civil service-wise I held  
24 all of the attorney titles. I think there's  
25 four models. At some point I became a

1 J. WANGEL

2 manager. I worked in the general counselor  
3 for a number of years in the disciplinary  
4 advocate's office. At some point I became a  
5 deputy director. From there I served as  
6 chief of staff.

7 Q At the disciplinary advocate's  
8 office, when were you there?

9 A I was there while I was at school  
10 as an intern from '03 for a good eight, nine  
11 years. I don't remember exactly. For a  
12 while.

13 Q Then you became a chief of staff.  
14 When did you become the chief of staff?

15 A It was -- I have to go back to my  
16 CV to look at the exact dates. It was under  
17 commissioner Farly (phonetic), so it was a  
18 while back. I honestly don't remember what  
19 year it was. It was a while ago.

20 Q Was it right before you came to H  
21 and H?

22 A It was before but not immediately  
23 prior. So I was the chief of staff for a  
24 little while. From there I held an attorney  
25 position in the advocate's office. I became

1 J. WANGEL

2 the director of labor relations for the  
3 department of mental hygiene.

4 COURT REPORTER: You're not  
5 very clear either. I hear you, but.

6 THE WITNESS: I'll speak up.

7 COURT REPORTER: Thank you.

8 Q Now, how long would you say you  
9 were the chief of staff at the department of  
10 mental health and hygiene, the intern?

11 A A little less than a year, I'd  
12 say.

13 Q And then you went to an attorney's  
14 position in the Advo's (phonetic) office  
15 again. How long were you there in the  
16 Advo's office?

17 A Also about a year.

18 Q Then you were the director of  
19 labor relations; how long were you in that  
20 capacity?

21 A Probably two years, I want to say.  
22 First, I was -- actually first, I was the  
23 deputy director and then the director of  
24 labor relations, which is different from the  
25 advocate's office and the general counsel's

1 J. WANGEL

2 office.

3 Q Now, the director of labor  
4 relations position, was that the position  
5 you held immediately before you came to H&H.

6 A Yes.

7 Q Did you meet Dr. Yang or Ms. Yang  
8 at the Department of Health and Mental  
9 Hygiene?

10 A I did.

11 Q How did you work with Ms. Yang at  
12 the Department of Health and Mental Hygiene?

13 MS. CANFIELD: Objection as to  
14 form. You can answer.

15 A I'm not quite sure I understand  
16 the question.

17 Q Well, did you work with Ms. Yang  
18 at Department of Health and Mental Hygiene?

19 A She was an -- there. We both  
20 worked for the same employer.

21 Q Right. But did you work with her  
22 as far as projects or initiatives?

23 A In the commissioner's office yes.  
24 As advocates as the issues come up. She  
25 held the title of chief operating

1 J. WANGEL

2 officers -- when issues came up that  
3 involved bringing something to that level,  
4 yeah.

5 Q How often would you say you worked  
6 with Ms. Yang there?

7 A Infrequently.

8 Q Did you ever work with her on  
9 anything that involved pay -- when you were  
10 there?

11 A I don't believe so, no.

12 Q So you started at H&H in 2015,  
13 December 2015; is that right?

14 A Yes.

15 Q And how did you get the position  
16 at H&H?

17 A I applied for a position. I was.

18 Q Were you encouraged to apply for a  
19 position at H&H?

20 A Was I encouraged to apply?

21 Q Yes.

22 A I wouldn't say I was encouraged.

23 Q Were you recruited?

24 A No. I'm not sure exactly what you  
25 mean by that.

1 J. WANGEL

2 Q Did anyone suggest that you apply  
3 for a position at H&H?

4 A I don't believe so, no.

5 Q Who interviewed you for your  
6 position at H&H?

7 A Dr. Yang.

8 Q Did Dr. Yang speak to you about  
9 working at H&H before they started?

10 A She did.

11 Q Was she the only person who  
12 interviewed you?

13 A I actually don't recall. I may  
14 have also talked to Dr. McDonald.

15 Q Now, did you work with Dr.  
16 McDonald when you were at the Department of  
17 Mental Health and Hygiene?

18 A No. I don't believe I did.

19 Q Did you and Dr. McDonald work at  
20 the Department of Mental Health and Hygiene  
21 at the same time?

22 A I believe he did.

23 Q But you hadn't met him at that  
24 time?

25 A I believe that's accurate, yes.

1 J. WANGEL

2 Q And then what was your position  
3 when you were hired by Dr. Yang?

4 A It was primarily for the labor  
5 relations director position I think the  
6 Health and Hospitals side senior director.  
7 And CHS was really -- at that time so it was  
8 sort of a little bit for other things, but  
9 primarily for the promotion.

10 Q What was your salary when you were  
11 hired?

12 A It was 150, maybe flat, a little  
13 higher.

14 Q 150?

15 A 150,000 dollars a year.

16 Q And how long -- I guess you at H&H  
17 there's like a corporate title and an office  
18 title; is that right?

19 A Yes.

20 Q So what was your -- I guess the  
21 senior director of labor relations was the  
22 office title. What was the corporate title?

23 A Senior director is the corporate  
24 title. So the corporate title was senior  
25 director and the functional title senior



1 J. WANGEL

2 director for, I think it was, labor and  
3 relations. It changed over time, but it was  
4 labor employment relations, or...

5 Q At that time how many people did  
6 you have as direct reports?

7 A Direct reports, hard to say. When  
8 I first came on board -- I'm trying to  
9 think. It's going back a little bit. I  
10 don't think there was anybody else in labor  
11 at the time because it was all very new,  
12 H&H. All the clinical work was vendor while  
13 I was doing work for H&H, so it was new.  
14 Very few. I don't remember offhand, but it  
15 was possibly one or two when I first  
16 started.

17 Q And who was your supervisor?

18 A Dr. Yang.

19 Q Now, how long did Dr. Yang remain  
20 your supervisor, your direct supervisor?

21 A For the entire duration of my  
22 employment at CHS.

23 Q But Dr. Yang has always been your  
24 direct supervisor?

25 MS. CANFIELD: Objection to

1 J. WANGEL

2 form. You can answer.

3 A I'm just thinking. I believe  
4 that's accurate, yes.

5 Q Now, in your capacity of senior  
6 director -- now, do you still currently have  
7 the title of senior director for labor and  
8 employment relations?

9 A I do not.

10 Q What's your current title?

11 A I'm assistant vice president to  
12 deputy counsel.

13 Q Assistant vice president and  
14 deputy counsel.

15 A Assistant vice president is the  
16 functioning title. The corporate title is  
17 deputy counsel.

18 Q Did you have any other titles  
19 before the -- in between the senior director  
20 for labor relations and the assistant VP  
21 deputy counsel titles?

22 A I did not.

23 Q When did you become assistant VP  
24 and deputy counsel?

25 A June or July of 2019.

1 J. WANGEL

2 Q Did you get an increase in the  
3 salary when you became assistant VP and  
4 deputy counsel?

5 A I did.

6 Q What was your salary at that  
7 point?

8 A At that point I think it was  
9 200,000, maybe 205,000.

10 Q And was your salary completely by  
11 a PAGNY or H&H?

12 A Health and hospital.

13 Q Just health and hospital?

14 A Health and hospitals, yes.

15 Q Now, I guess, for purposes of the  
16 lawsuit, I guess you actually were promoted  
17 during the time Dr. Kaye is actually at  
18 health and hospitals. So I guess I'd like  
19 to kind of get into the job functions when  
20 you were senior director of labor and  
21 employment relations. And then having  
22 discussed what your work functions were once  
23 you were promoted.

24 So initially as senior director  
25 for labor and employment relations, what

1 J. WANGEL

2 were your, I guess, responsibilities?

3 A So maintaining relations with  
4 multiple humans; oversee both disciplinary  
5 matters and grievances filed by the union.  
6 Those were the primary responsibilities for  
7 the senior director of relations.

8 Q So you were tasked with  
9 interpreting and enforcing the collective  
10 bargaining agreement that were necessary,  
11 right?

12 A Yes.

13 Q And you presided over the  
14 grievance process when the employees filed  
15 grievances; would that be right?

16 A When you say preside over, not  
17 exactly sure what you mean.

18 Q Well, if an employee filed a  
19 grievance during that time period, would it  
20 be fair to say that you actually dealt with  
21 the unions, or I guess, engaged with the  
22 union and/or engaged in the step process;  
23 would that have been you?

24 A It could have been. I definitely  
25 would have taking part of the process, but

1 J. WANGEL

2 there are other staff also who are handling  
3 those matters as well.

4 Q Would you have been the final say  
5 for the agency position on the grievances?

6 MS. CANFIELD: Objection as to  
7 form. You can answer.

8 A Potentially.

9 Q What do you mean by that?

10 A It just depends on the matters.  
11 There are various steps. I'm not sure if  
12 you're familiar with the process. But when  
13 you say the position of the agency, I'm not  
14 exactly sure what you're asking.

15 Q For example, I don't want to give  
16 you a hypothetical. I know there's a step  
17 process. There's step one and step two and  
18 perhaps maybe do an arbitration for the  
19 Article 78; would that be accurate?

20 MS. CANFIELD: Objection,  
21 form. You can answer.

22 A Yeah. There's an actually a  
23 defined grievance process that has four  
24 steps. One, two, three or arbitration or  
25 depending on the step number civil service

1 J. WANGEL

2 rights, you can also chose to appeal step  
3 one. Recommendation to administrative  
4 during trials and hearings.

5 The correctional health has staff  
6 that are both employed by H&H directly and  
7 PAGNY; sounds like you know. And PAGNY has  
8 a completely separate process, which is  
9 outside of the city process.

10 Q And you didn't preside over the  
11 PAGNY process?

12 A No.

13 Q So, Mr. Wangel, you had, we just  
14 discussed the grievance process, and I was  
15 trying to figure out if you were the  
16 ultimate authority, I guess, at the agency  
17 when it came to making determinations as to  
18 the agency's position on a given grievance.  
19 And you gave me the answer that it depended,  
20 right?

21 A Yes.

22 Q And under what circumstances would  
23 you have the final say on, I guess, final  
24 arbiter of the grievance?

25 A Definitely not the arbiter for

1 J. WANGEL

2 sure. But if you're asking what position or  
3 what health and hospitals is going to  
4 advocate for from a disciplinary perspective  
5 for what a potential settlement offer could  
6 be in the grievance or what the ultimate  
7 disposition could be in any one of those  
8 matters, some of them are typically routine.  
9 There are cases that come up all the time,  
10 routine grievances; how to title things,  
11 time-and-leave related cases. Those are  
12 tried and true, unless there's some  
13 tremendous variation in the facts, which  
14 typically doesn't happen unless some  
15 egregious conduct. Yeah, the office itself,  
16 myself or everyone, a deputy could make a  
17 decision on what stands Health and Hospitals  
18 would take on a given case.

19 Sometime issues come up that could  
20 impact the entire service or the entire  
21 department, in which case you need input  
22 from other leads.

23 Q Who are these other leaders that  
24 you would have gotten input from in those  
25 instances?

1 J. WANGEL

2 A It would depend on the case. It  
3 would depend on who's involved in the  
4 agency's perspective, right. It could be  
5 head of service, could be Dr. Yang -- and  
6 this is solely for correctional health now,  
7 right? It will all depend on what the  
8 matter was.

9 Q Now, in the instance of Dr. Kaye  
10 when she filed her grievance, were you the  
11 final decision maker when it came to the  
12 outcome of her grievance?

13 A Which grievance are you speaking  
14 about?

15 Q Well, there's at least one where  
16 she talked about being docked pay. Do you  
17 recall that?

18 A Vaguely. I mean I deal with  
19 thousands of disciplinary grievances. This  
20 is years ago, so you might have to help me  
21 out with that. What was the substance of  
22 that grievance?

23 Q You should be seeing a screen.

24 A Yes.

25 Q And for the purposes of today's



1 J. WANGEL

2 deposition, I'm going to start with one  
3 again. This will be Plaintiff's Exhibit  
4 One, and it bears the Bate Stamp series  
5 NYC\_1902, NYC\_1903 and it should go all the  
6 way to NYC\_1906.

7 (Whereupon, Email (NYC\_1902 -  
8 1906) was marked as Plaintiff's  
9 Exhibit 1 for identification as  
10 of this date.)

11 Q I guess it would kind of make  
12 sense to go to the portion you'll read.  
13 Let's start here. I'm showing you it's an  
14 email dated October 25, 2019, and it's from  
15 Dr. Kaye. It looks like she addresses it to  
16 the Saadya.

17 Was Saadya your staff person at  
18 that time?

19 A She could have been. At one point  
20 I oversaw payroll functions as well, so  
21 Saadya would have been one of the payroll  
22 staff.

23 Q So at that time Dr. Kaye was told  
24 that she had six hours and 56 minutes of  
25 AWOL, six hours and 56 minutes, during the

1 J. WANGEL

2 period of October 6, 2019, to  
3 October 12, 2019. And absence without pay  
4 totals were \$677.11, and it will be deducted  
5 from her November 1, 2019, paycheck due to  
6 not having enough sick time.

7 Now, is that a common occurrence  
8 there at H&H?

9 A Is what a common occurrence?

10 Q Well, people getting docked pay  
11 for being AWOL from time to time.

12 MS. CANFIELD: Objection as to  
13 form. You can answer.

14 A It could be. It all depends on a  
15 number of factors. It could be the time  
16 sheet coding, could be an error, could be a  
17 staff member had a rebalances to cover, a  
18 number of specific absences. There's a  
19 number of reasons why pay could potentially  
20 be reduced.

21 Q Now, at this time Dr. Kaye then  
22 responded to Samantha Kent, Dr. Jain, her  
23 union representative, Nate Santa Maria and  
24 Kevin Collins, Collen Barrow and CHS  
25 Payroll. Of these people I'm thinking that

1 J. WANGEL

2 Ms. Barrow must have worked in your office,  
3 right?

4 MS. CANFIELD: Objection.

5 A This is October of 2017, so I was  
6 no longer with CHS at this time.

7 Q So you weren't with CHS at this  
8 time?

9 A I was not.

10 Q And you were CC'd on any of these  
11 just to make sure. Well, actually you were  
12 CC'd on this e-mail. I'm scrolling to the  
13 portion where you're were CC'd?

14 A Okay.

15 Q And this is on November 26, 2019,  
16 right. And at this point, did you preside  
17 over the grievance process or have any part  
18 in the grievance process?

19 A I did not. I was not at  
20 Correctional Health during this time. I see  
21 from the copy list Dr. Kaye CC'd a whole  
22 bunch of folks including Dr. Katz. There  
23 are CHS staff, including Ms. Kent, Ms. Kent  
24 was the head at the correctional health  
25 during that period. She would have been the

1 J. WANGEL

2 appropriate person to respond on the  
3 grievance.

4 Q And you didn't have any part in  
5 this at all?

6 A Correctional Health is a little  
7 bit silent to the rest of the system when it  
8 comes to the grievance process. So they2009  
9 handle labor in house themselves. Only  
10 certain matters that get evolved to the  
11 system level would be able to come to me in  
12 my currently role. So I would have not been  
13 involved in that.

14 Q So here it seems as if you did  
15 seek -- you decided to forward the emails to  
16 Ms. Greenfield; why did you do that?

17 A I don't recall. I hadn't seen  
18 this actually.

19 Q Would you need to see more to  
20 figure out why you diverted it to  
21 Ms. Greenfield?

22 A It's a couple of years ago.

23 MS. CANFIELD: Can the witness  
24 read the entire document from top  
25 bottom and see why he forwarded it.

1 J. WANGEL

2 Q Okay. Where would you like to  
3 start reading Mr. Wangel?

4 A The top is good.

5 MS. CANFIELD: The bottom.  
6 The bottom is the beginning of the  
7 thread.

8 MS. HAGAN: I think we read  
9 the beginning of the thread.

10 Q Would you need to read that again  
11 or would you like to --

12 A So the first e-mail is another  
13 reduction in dollars, right? Can you go to  
14 the top of this. So this is from Dr. Kaye  
15 to Wilma. There's a different message now.

16 Q Yes.

17 MS. CANFIELD: Can you make  
18 the screen bigger.

19 A It's fine as I can see the  
20 whole -- Dr. Kaye to Wilma to labor payroll,  
21 health service, Dr. Yang, me, so concerned  
22 about payroll. Okay. Okay, done.

23 Q So what made you decide -- reading  
24 the e-mail and Dr. Kaye's decision to file a  
25 grievance because she was docked pay for at

1 J. WANGEL

2 least two pay periods, and she was docked  
3 two pay periods in a row for taking time off  
4 on Jewish high holidays, was that the reason  
5 why you decided to forwarded it to Blanche  
6 Greenfield?

7 MS. CANFIELD: Objection as to  
8 form. You can answer.

9 A Again, this is talking almost two  
10 years later now, but having reread this, I  
11 believe I would have forwarded to Blanche  
12 because Dr. Kaye mentions discrimination in  
13 her e-mail. Ms. Greenfield oversees EEO for  
14 the system.

15 Q At that time Ms. Greenfield did  
16 oversee the Agency's EEO process; is that  
17 right?

18 A I believe so.

19 Q I guess we kind of go back a  
20 little bit. When did you first meet Dr.  
21 Kaye?

22 A I don't know. I don't have an  
23 exact date, timeframe. Within my time at  
24 Correctional Health.

25 Q Do you remember the circumstance

1 J. WANGEL

2 that lead to the meeting?

3 A I believe I do.

4 Q What were they?

5 A I remember having some  
6 conversations with Dr. Kaye right around the  
7 time she transitioned to Correctional Health  
8 from, I believe it was Bellevue. The  
9 program she worked for was moving from  
10 the -- site over to Correctional Health.

11 Q Do you remember who else met with  
12 you when you met with Dr. Kaye?

13 A Dr. Kaye and I met a few times  
14 both with and without union folks. So hard  
15 for me to remember exactly who was there.

16 Q Well, I guess in that initial  
17 meeting or in those early meetings, did you  
18 meet with Kaye and -- did Jessica Laboy sit  
19 with you?

20 MS. CANFIELD: Objection to  
21 form. You can answer.

22 A I believe I early on we did meet  
23 with Dr. Kaye regarding she had some  
24 questions about the transition over. And I  
25 believe there was a time when I met with

1 J. WANGEL

2 Ms. Laboy, Dr. Kaye, myself and I think  
3 there was some other folks there. It wasn't  
4 a typical, we were sitting in a conference  
5 room meeting. I think we had gone office to  
6 office to discuss different topics.

7 Q At any point during those  
8 meetings, did you tell Dr. Kaye that her  
9 working conditions would not change with the  
10 transfer from, I guess, it would have been  
11 Bellevue to CHS?

12 A I think we talked a lot about  
13 compensation and --

14 COURT REPORTER: I'm sorry.  
15 Can you repeat your answer.

16 A I think we talked about  
17 compensation and Correctional Health,  
18 including myself, there would be no change  
19 of salary or loss of compensation. Dr. Kaye  
20 had expressed her interest in remaining the  
21 doctor's counselor member or union member.  
22 As far as working conditions, I don't think  
23 we discussed work conditions. Her work  
24 location was remaining unchanged because her  
25 job was remaining unchanged.



1 J. WANGEL

2 Q What about her pension? Would her  
3 pension carry --

4 A There would be nowhere to carry.  
5 She would still and was at Health and  
6 Hospitals, so I don't believe there was a  
7 change in her pension.

8 Q Did Dr. Kaye follow up with you in  
9 an e-mail trying to ensure she understood  
10 what was represented during the course of  
11 that meeting?

12 A It's possible.

13 MS. CANFIELD: Objection to  
14 form. Jonathan, give me a little  
15 chance to object.

16 THE WITNESS: Sure. Yeah, you  
17 got it.

18 A It's possible.

19 Q And once she wrote this e-mail or  
20 emails, did you respond confirming either  
21 way if her understanding of what transpired  
22 was actually accurate?

23 A I don't recall. I would need to  
24 be refreshed.

25 Q So let's do that then.

1 J. WANGEL

2 Mr. Wangel, as I'm pulling up the  
3 exhibit, have you ever been sued before?

4 A I don't believe so.

5 Q Have you ever been named as a  
6 defendant in a lawsuit?

7 A I believe just this one.

8 Q So have you ever been deposed in a  
9 case against the City of New York or H&H?

10 A I have not.

11 Q Have you ever been deposed in a  
12 case against H&H?

13 A I have not.

14 Q Have you ever been I guess the  
15 subject of any oath proceedings?

16 A The subject of an oath, no. I've  
17 taken part in many as counsel. I've never  
18 been the subject of an oath proceeding.

19 Q I'm going show you what's going to  
20 be marked as Plaintiff's Exhibit Two.

21 A Sure.

22 (Whereupon, e-mail (NYC\_513) was  
23 marked as Plaintiff's Exhibit 2  
24 for identification as of this  
25 date.)

1 J. WANGEL

2 Q You can see the screen; am I  
3 right?

4 A Yes.

5 Q And I'm going to give you an  
6 opportunity to read it.

7 MS. HAGAN: For purposes of  
8 the record Plaintiff's Exhibit Two  
9 bears the Bate Stamp series NYC\_513.

10 Q You see that, right?

11 A I do.

12 Q I'm going to allow you to read  
13 this, and you let me know when I need to  
14 scroll down, okay, Mr. Mr. Wangel.

15 A Sure. Okay.

16 Q Now, I'm going to ask you some  
17 questions. I just want to make sure the  
18 record is clear, this is an e-mail dated,  
19 April 30, from Dr. Kaye to you and  
20 Ms. Laboy.

21 First and foremost, what is  
22 Jessica Laboy's title at that time?

23 A I actually, I don't recall.

24 Q Was she your supervisor at that  
25 time?

1 J. WANGEL

2 A I think there was a very brief  
3 period where she was. She there was -- now  
4 that you say that, there was a brief period  
5 where I did report to Ms. Laboy not Dr.  
6 Yang. I don't recall if this was during  
7 this period though.

8 Q So here you are April 30, 2018,  
9 and you and Ms. Laboy are on this e-mail.  
10 And Dr. Kaye is thanking you both for taking  
11 the time out to discuss the transition from  
12 Bellevue to CHS; is that right?

13 A (No verbal response.)

14 Q So as you discussed in our initial  
15 exchange, you said that she was concerned  
16 about union membership. So there are a few  
17 things that she identifies, right, as  
18 concerns and takeaways from the meeting.  
19 So, for example, the first point she said  
20 doctor's counsel union membership would all  
21 associated benefits, including but not  
22 limited to dental, legal, orthodontic,  
23 vision, etc., that would stay the same. And  
24 it did, am I right?

25 A As far as I know she remained in

1 J. WANGEL

2 doctor's counsel, so I would say yes.

3 Q That goes to my second point,  
4 which basically said that she would not be  
5 taken out of the doctor's counsel union and  
6 be placed in a non-unionized managerial  
7 line; you saw that right?

8 A I see number two on the e-mail,  
9 yes.

10 Q And you discussed this with her;  
11 am I right?

12 A I believe I did.

13 Q Now, number three, she says, I  
14 will receive the \$20,000 retention bonus  
15 owed to Bellevue physicians per a  
16 memorandum, I guess, agreement, which is not  
17 yet forthcoming. I will remain eligible and  
18 receive this bonus even if it is dispersed  
19 after July 1, 2018, when my line has been  
20 changed.

21 Were you ever discussing this  
22 during this meeting with her?

23 A We likely did. I don't remember  
24 exactly what was discussed, but I do  
25 remember a conversation about what was

1 J. WANGEL

2 mentioned.

3 Q Now, did this actually happen Mr.  
4 Wangel?

5 MS. CANFIELD: Objection to  
6 form.

7 A I believe it did. Let me ask you  
8 a question, when you say, did it happen, are  
9 you asking was she paid the \$20,000, Dr.  
10 Kaye?

11 Q Was Dr. Kaye paid the \$20,000 in  
12 one lump sum, or was there an issue as far  
13 as whether or not she was entitled to a full  
14 retention bonus or not?

15 MS. CANFIELD: Objection to  
16 form. You can answer.

17 A There's two pieces there. I  
18 believe that Dr. Kaye remained on Bellevue  
19 payroll to a date certain to ensure she  
20 would remain eligible for the \$20,000, for  
21 the retention bonus 'cause the way the  
22 agreement for the retention is framed. And  
23 I believe that's why the transition occurred  
24 when it did.

25 I vaguely remember conversation --

1 J. WANGEL

2 I talked with doctor's counsel regularly  
3 about retention bonus and the way things are  
4 calculated. There could have been an issue.  
5 I don't remember the details if there was.  
6 That's what I recall.

7 Q Was there a time when Dr. Kaye  
8 approached your office about not receiving  
9 the entire \$20,000 that she was entitled to?

10 A I believe that's correct.

11 Q What happened? Do you recall?

12 A I don't remember the exact  
13 circumstances.

14 Q Let's go through this e-mail first  
15 and then we can go through some of the  
16 specific instances in more detail.

17 Does that work?

18 A Sure.

19 Q Now, the fourth point she goes  
20 into her longevity pay. Now, at any point,  
21 was there a controversy involving Dr. Kaye's  
22 longevity pay?

23 A Not that I recall.

24 Q Is it your testimony that Dr. Kaye  
25 received the longevity pay without having to

1 J. WANGEL

2 raise any complaints beforehand?

3 A She may have. Again, this is  
4 years ago, I don't remember. I mean I deal  
5 with issues of this type almost on a daily  
6 basis. It is hard to remember the specifics  
7 of any one claim. But it's possible, I just  
8 don't recall.

9 Q Now, there's also a question of  
10 the go down to the NYCERS pension status  
11 membership. Did Dr. Kaye ever raise any  
12 questions about her NYCERS pension status?

13 A Not that I recall. It's not  
14 impossible, she may have. Again, I don't  
15 recall.

16 Q And then was there a time where  
17 Dr. Kaye raised any concern about her title  
18 being changed from medical director?

19 MS. CANFIELD: Objection to  
20 form. You can answer.

21 A Again, it's possible, but I don't  
22 recall specifically.

23 Q And last but not least, did Dr.  
24 Kaye ever raise any concerns or any issues  
25 about having to report to Rikers Island or



1 J. WANGEL

2 city court clinics in different boroughs  
3 during the course of your tenure there in  
4 CHS?

5 A I remember the Riker's  
6 conversation, and the court clinics are  
7 obviously not on Rikers. Different  
8 boroughs, I don't recall that piece of the  
9 conversation. But again, it's a while back,  
10 so I don't recall specifically.

11 Q So I'm going to get in some more  
12 exhibits, so maybe perhaps this will refresh  
13 your memory some; fair enough?

14 A Yeah.

15 Q So the first exhibit I'm going to  
16 show you -- I guess this will be the third  
17 exhibit. This will be Plaintiff's Exhibit  
18 No. Three.

19 (Whereupon, e-mail (NYC\_250 -  
20 251) was marked as Plaintiff's  
21 Exhibit 3 for identification as  
22 of this date.)

23 Q I'm going to share the screen.

24 MS. CANFIELD: Counsel, I just  
25 want to ask the exhibits that you

1 J. WANGEL

2 sent over to me early this morning  
3 they are not actually in order or  
4 they are not marked as P1, P2, P3.  
5 They are just a bunch of documents.

6 MS. HAGAN: I'm aware of that.

7 MS. CANFIELD: So that's  
8 correct?

9 MS. HAGAN: I'm aware of that.

10 MS. CANFIELD: Okay.

11 MS. HAGAN: So you have the  
12 exhibits as per the Court's order.

13 MS. CANFIELD: But they are  
14 not marked as exhibits.

15 MS. HAGAN: The Court ordered  
16 me to give you exhibits and you have  
17 them.

18 MS. CANFIELD: I'll followup  
19 with the Court.

20 Q Now, Exhibit Three.

21 MS. HAGAN: The exhibit is not  
22 premarked, so you got them as I have  
23 them.

24 Q Exhibit Three, Mr. Wangel, it  
25 bears the bate stamp series NYC\_251, and

1 J. WANGEL

2 it's an e-mail from Ms. Laboy to you and Dr.  
3 Kaye. And it was sent on Wednesday  
4 May 30, 2018.

5 You see that right.

6 A E-mail on top of the screen, yes.

7 MS. CANFIELD: Ms. Hagan, you  
8 gave one Bate Stamp, but this  
9 appears to be a two-page document.

10 MS. HAGAN: That's it.

11 MS. CANFIELD: It's a two-page  
12 document.

13 MS. HAGAN: I'm sorry. It  
14 will be NYC\_250 to NYC\_251, that's  
15 Exhibit Three. My apologizes.

16 Q Have you had an opportunity to  
17 read all of the initial page?

18 A I haven't read anything yet. I  
19 scrolled back and forth.

20 MS. CANFIELD: Can you make  
21 this bigger, so we can see the whole  
22 page. It will make it easier and, I  
23 think, quicker for all of us to read  
24 it. There's only three quarters on  
25 the screen.

1 J. WANGEL

2 MS. HAGAN: This is as big as  
3 I can get. I don't have a large  
4 computer screen. Sorry,  
5 Ms. Canfield.

6 A What I am directly going to?

7 Q So the first e-mail Dr. Kaye  
8 actually emails you on May 30, and she said  
9 I just spoke with Nicole at NYCERS pension.  
10 She checked with her supervisor and told me  
11 that NYCERS has no information or no  
12 indication that any CHS employee is or will  
13 be a member of NYCERS. She says, therefore,  
14 under CHS I will not continue to accrue  
15 service time toward my pension, nor will  
16 adjustments in my final rate be changed  
17 based on future salary increase. NYCERS  
18 told me to contact my union in HR  
19 department. It sounds like this compulsory  
20 change of my line from BHC to CHS is going  
21 to cause me to lose an accrued service time  
22 going forward and negatively impact my final  
23 pension situation. This is intolerable.  
24 I'm seeking to remedy this problem. Any  
25 assistance you can provide me with will be

1 J. WANGEL

2 appreciated. Right?

3 Then, I guess, Ms. Laboy gets back  
4 to Dr. Kaye; is that right?

5 A There's a response from Ms. Laboy  
6 in the e-mail, yes.

7 Q Did you look into, I guess, Dr.  
8 Kaye's concerns regarding the pension?

9 A Me personally? I don't recall  
10 that I did. Typically NYCERS doesn't speak  
11 to anybody but the pension member about any  
12 specific employee that's the case across the  
13 board.

14 Dr. Kaye's original e-mail  
15 references somebody named Nicole. I don't  
16 know who Nicole is at NYCERS. I don't know  
17 what the basis of that conversation was.  
18 There are folks who handle benefits for  
19 Health and Hospitals. And Ms. Fong, who is  
20 copied on the next e-mail, she is the  
21 correct liaison for the central office that  
22 handles the NYCER issues.

23 Q Now, do you recall the outcome of  
24 this inquiry in this instance?

25 A I have not.

1 J. WANGEL

2 Q Do you recall whether or not CHS,  
3 the other Bellevue employees that  
4 transitioned to CHS whether or not their  
5 pensions actually transitioned as well?

6 A I don't recall having any  
7 conversation about it. Yeah, it's possible,  
8 but I don't recall the specifics.

9 Q Did anyone else who transitioned  
10 in Bellevue to CHS reach out to you or any  
11 one in your office regarding NYCERS?

12 A Again, it's possible, but I don't  
13 recall specifics if they did.

14 Q Now, I'm going to show you another  
15 e-mail regarding Dr. Kaye and the issues  
16 with her retention bonus.

17 Do you recall if there were any  
18 discussions about that with her office or a  
19 Colleen Barrow by any chance?

20 A Colleen started working for  
21 payroll also. Again, it's a while back. I  
22 don't recall the specifics.

23 Q I'm going to show you the initial  
24 discussion first. Perhaps that will jog  
25 your memory some.

1 J. WANGEL

2 (Whereupon, e-mail (NYC\_594-595)  
3 was marked as Plaintiff's  
4 Exhibit 4 for identification as  
5 of this date.)

6 Q And for purposes of the discussion  
7 this will be marked as Plaintiff's Exhibit  
8 Four. And Plaintiff's Exhibit Four bears  
9 the date stamp series NYC\_594, NYC\_595.

10 And, I guess, for purposes that  
11 you get the full picture of what transpired  
12 here, I'm going to have you start at the  
13 bottom of the exhibit.

14 It's dated September 26, 2016.  
15 Who is Angela Mulett?

16 A I don't know. I don't recall.  
17 This. If you scroll a little bit, I believe  
18 looking at this these are the hours worked  
19 working at Bellevue. Without seeing the  
20 entire chain I would imagine that Angela  
21 probably works for the payroll at Bellevue  
22 or Correctional Health. The site -- looks  
23 like the hours worked.

24 Q It looks like Ms. Mullett's e-mail  
25 address has an NYCHHC.org post, would that

1 J. WANGEL

2 have placed her somewhere else outside of  
3 HHC systems?

4 A Everybody at Health and Hospitals  
5 has that same -- that's everybody who works  
6 for the system.

7 Q At this time there was a full  
8 transition for former Bellevue employees to  
9 the NYCHHC post at that point; am I right?

10 MS. CANFIELD: Objection to  
11 form. Vague and ambiguous.

12 Q This will be September 2018,  
13 right?

14 A I'm confused. So everybody,  
15 Correctional Health included, are all part  
16 of Health and Hospitals as a corporation.  
17 There's all one employer. There's no  
18 separate employers there.

19 Q At any point did Bellevue  
20 employees have a Bellevue host for their  
21 e-mail?

22 MS. CANFIELD: Objection.

23 A Sorry. Not that I'm aware of. I  
24 mean I believe every H&H paid employee has  
25 that same host address no matter where you



1 J. WANGEL

2 work. The post site, docs site, personal  
3 health --

4 Q To Bellevue too?

5 A That's my understanding.

6 Q I'm going to scroll up so you can  
7 see more. Matthew Campese, who is he?

8 A He ran good relations for the  
9 system, the entire Health and Hospitals  
10 system.

11 Q So he presided over labor and  
12 relations for all of Health and Hospitals;  
13 is that right?

14 A Generally, yes. Correctional  
15 Health was a little bit different than the  
16 rest. So they had a little bit more  
17 independence -- than other sites throughout  
18 the system.

19 Q And Mr. Campese title at this  
20 time, what was it?

21 A He was the assistant vice  
22 president.

23 Q Of what?

24 A Labor Relations.

25 Q And now in that capacity were you

1 J. WANGEL

2 reporting to Mr. Campese or were you  
3 somewhere else?

4 MS. CANFIELD: Objection to  
5 form. You can answer.

6 A What time period are we talking  
7 about?

8 Q September 2018.

9 A I never directly reported to  
10 Mr. Campese.

11 Q Was he your indirect supervisor?

12 A I wouldn't even say that. Were  
13 there matters that came up or were there  
14 matters at Correctional Health that I would  
15 include central office labor because it had  
16 other potential impact, yes. But I never  
17 reported to either directly or indirectly.  
18 But we had open dialogue about matters,  
19 which would go for all clinics.

20 Q So Mr. Campese said, thank you  
21 very much, Angela. Based on the hours  
22 provided, it would appear that the doctors  
23 full-time employee status during the  
24 required time period is as follows, and then  
25 he list. At the top of it, for the purposes

1 J. WANGEL

2 of our discussion, Dr. Kaye is listed at  
3 .67.

4 Is that .67 of a 1.0 full-time  
5 employee status?

6 A I can't speak for Mr. Campese, but  
7 the e-mail says FTE status retention amount,  
8 so.

9 Q I'm asking you about the decimal,  
10 the .6700s, is that a percentage of the  
11 full-time employment status that he's  
12 representing that she's not working  
13 full-time; is that what that means?

14 A Again, that's what I would say.  
15 Again, I can't speak for Mr. Campese, but  
16 the .67 I believe is out of 1.0 FTE status  
17 with 1.0 FTE being a full 4000 and .67  
18 representing --

19 Q And consistent with that he  
20 estimates that Dr. Kaye would be entitled to  
21 13,400, right?

22 A Based on what the e-mail says,  
23 yes.

24 Q Yes. So then the other  
25 individuals here, are you aware of what

1 J. WANGEL

2 their status was within the CHS system?

3 MS. CANFIELD: Objection as to  
4 form. You can answer.

5 A I believe they were all part of  
6 FTE as well.

7 Q Now, Dr. Kaye was a central  
8 director; you remember that right?

9 A I do.

10 Q Now Dr. Solanky (phonetic), was he  
11 or she a center director?

12 A I don't recall the titles of the  
13 other three.

14 Q Would it be fair to say that the  
15 other three were phycologist at the  
16 Manhattan center?

17 A They could have been. Again, I  
18 don't recall their exact titles.

19 Q Let's see how much remember as far  
20 as the directors are concerned. Dr. Kaye  
21 was definitely a director of the Bronx Court  
22 clinic; would that be fair to say?

23 A I do recall that, yes.

24 Q Dr. Owen was director of the  
25 Brooklyn or Queens court at any given point;

1 J. WANGEL

2 is that right?

3 MS. CANFIELD: Objection as to  
4 form. You can answer.

5 A I believe so.

6 Q Dr. Winkler eventually became the  
7 director of the Brooklyn court center; is  
8 that right?

9 A Again, hard to recall, but I know  
10 the name. I know he's a director. I don't  
11 recall when, where for which borough, but.

12 Q And Dr. Mundy would have been the  
13 director of the Manhattan center; am I  
14 right?

15 A I believe that's correct.

16 Q So it's fair to say that neither  
17 Dr. Solanky, Dr. Weiss and Dr. Harper for  
18 those time periods were not directors of any  
19 centers at that time; would that be fair?

20 MS. CANFIELD: Objection as to  
21 form. You can answer.

22 A To my knowledge I believe that's  
23 correct. Yes.

24 Q And Mr. Campese then emails you  
25 directly on September 26. And at that

1 J. WANGEL

2 time -- well, you e-mail him first. I'm  
3 sorry I skipped over something.

4 Then you say to Ms. Mulett. I'll  
5 confirm first thing tomorrow morning,  
6 Angela. Thank you. And it appears that  
7 there was an e-mail that's, I guess, took  
8 place in between here and your e-mail, but  
9 we don't have that e-mail.

10 So I have to follow up on that  
11 with counsel, and I'll be sure to put that  
12 in writing for her to take it under  
13 advisement.

14 MS. CANFIELD: What are you  
15 asking for.

16 MS. HAGAN: I'm asking for the  
17 e-mail that Mr. Mr. Wangel actually  
18 received again from Ms. Mulett in  
19 the between the one that he received  
20 from Mr. Campese. There had to have  
21 been another e-mail.

22 MS. CANFIELD: So you based on  
23 that on what? The testimony of the  
24 witness.

25 MS. HAGAN: I'm basing it on

1 J. WANGEL

2 the contents of the e-mail. Mr.  
3 Wangel is responding to something to  
4 Angela and that e-mail is missing.  
5 So I'll followup in writing and I  
6 know you'll take it under  
7 advisement.

8 MS. CANFIELD: Mr. Wangel, you  
9 can testify.

10 A I think -- can you scroll down a  
11 little bit it may be helpful. Hang on. So  
12 Matt Campese is writing. So scroll up a  
13 little bit. So that's Matt writing to, but  
14 he says, Jonathan, if you can confirm that  
15 these doctors are board eligible, right? So  
16 that's Matt asking me something. And I'm  
17 thanking Angela for providing the  
18 information, and I'm writing to Matt to say  
19 I'll confirm follow up with this thread.

20 (Reporter clarification.)

21 A The e-mail from Mr. Campese says,  
22 Jonathan forward, and then he ask the  
23 question, can you please confirm. So my  
24 response to Matt is, I'll confirm first  
25 thing tomorrow and I'm also thanking Angela

1 J. WANGEL

2 for informing me.

3 Q Now, I'm going to ask you some  
4 general questions.

5 How often would you say during the  
6 time that you're working at CHS that, did  
7 you interact with Dr. Kaye?

8 A Again, we had a conversation  
9 before the transition, and then that I  
10 recall meeting prior to the filing of this  
11 claim. Where I believe Mr. Santa Maria  
12 advised counsel, and Dr. Kaye had a whole  
13 bunch of questions about the time keeping  
14 issues. And I pulled the time sheet records  
15 and tried my best to explain to her whatever  
16 I could best concerns that they had.

17 As far as work, work doesn't  
18 overlap. I don't recall any work-related  
19 item. And otherwise via e-mail, I would  
20 say.

21 Q Did you have any impression of Dr.  
22 Kaye during your time there?

23 A I'm not sure what you mean.

24 Q I mean did you take a position as  
25 to the type of professional Dr. Kaye was



1 J. WANGEL

2 during the course of your employment at CHS?

3 A No. Not exactly sure what you  
4 mean, but everybody is a professional  
5 everybody. All there health professionals  
6 in one way or another, we're all on the same  
7 team. I do the same thing out every day. I  
8 don't have any pre-formed opinions or  
9 anything like that --

10 Q Did you hear any, I guess,  
11 commentary about Dr. Kaye from Dr. Yang?

12 MS. CANFIELD: Objection to  
13 form. You can answer.

14 A I'm not sure what you mean by the  
15 commentary.

16 Q Well, did Dr. Yang ever discuss  
17 Dr. Kaye with you?

18 A We had discussions. Hard to  
19 remember specifics about topics involving  
20 Dr. Kaye. I don't know if we really had  
21 conversations about Dr. Kaye as a person, if  
22 that's what you're asking.

23 Q What topic did you have that  
24 involved Dr. Kaye? What topics of  
25 discussion did you have with the Dr. Yang

1 J. WANGEL

2 that involved Dr. Kaye?

3 A It would had to have been a labor  
4 relations matter.

5 Q Like what?

6 A Privacy issue.

7 Q You said a privacy issue. Now,  
8 what do you recall about the privacy issue?

9 A I assume you're aware that there  
10 was an instance of recording that Dr. Kaye  
11 did for a court proceeding.

12 Q Were there any other impressions  
13 that Dr. Yang conveyed to you about Dr.  
14 Kaye?

15 MS. CANFIELD: Objection to  
16 form. You can answer.

17 A Yeah. You said any other  
18 impression? I'm not sure I understand what  
19 was the first impression.

20 Q Did she ever criticize Dr. Kaye to  
21 you?

22 A Not that I recall.

23 Q Had you ever heard any complaints  
24 about Dr. Kaye?

25 A Did I hear complaints about Dr.

1 J. WANGEL

2 Kaye? Not that I recall.

3 Q Did you have any complaints about  
4 Dr. Kaye?

5 A Not that I recall.

6 Q So let's continue with the  
7 retention stuff.

8 So here we had a discussion about  
9 the initial calculation of Dr. Kaye's time,  
10 right? I'd like to ask you what steps were  
11 taken to determine whether or not Dr. Kaye  
12 was actually a full-time employee or a  
13 part-time employee?

14 A You're talking about in relation  
15 to the e-mail with the FTE calculation?

16 Q Yes.

17 A That would have been done by her  
18 former site. Correctional health would not  
19 have records from Bellevue.

20 Q So you're saying Correctional  
21 Health would have had to obtain the records  
22 from Bellevue, and then Correctional Health  
23 would have had to take what Bellevue  
24 represented as her actual work status; would  
25 that have been accurate?

1 J. WANGEL

2 MS. CANFIELD: Objection to  
3 form. You can answer.

4 A I believe that's correct. That's  
5 why Ms. Mulett was the one making the  
6 calculations, she works for Bellevue or had  
7 worked for Bellevue.

8 Q She had worked for Bellevue, but  
9 then she transitioned, right?

10 A I don't recall. Angela, you're  
11 talking about?

12 Q Yes.

13 On September 26, 2018, would it be  
14 fair to say Ms. Mulett was working for CHS,  
15 or was she still working for Bellevue?

16 MS. CANFIELD: Objection to  
17 form. You can answer.

18 A I don't recall Ms. Mulett working  
19 for CHS. That, I don't recall. I don't  
20 know.

21 Q I'm going to show you what's going  
22 to be marked as Plaintiff's Exhibit Five.

23 (Whereupon, e-mail (NYC\_609-611)  
24 was marked as Plaintiff's  
25 Exhibit 5 for identification as

1 J. WANGEL

2 of this date.)

3 Q Plaintiff's Exhibit five bears the  
4 bate stamp series NYC\_609, NYC\_610, NYC\_611.

5 And it starts with the same, I  
6 guess, time analysis from Ms. Mulett on  
7 September 26, 2018. You see that, right?

8 A I do.

9 Q Did you need to look at it again  
10 or should I scroll up?

11 A You can scroll up.

12 Q So then it has the same break  
13 down, total discussion of the total work  
14 hours. It's from Mr. Campese to Ms. Mulett;  
15 you see that, right?

16 A I do.

17 Q And Mr. Campese addresses it to  
18 you as well; you see that, right?

19 A Yeah. The e-mail is to me and he  
20 asked me to --

21 Q You and Mr. Campese worked  
22 together in CHS; is that right?

23 A No.

24 Q Where is Mr. Campese?

25 A At what point in time?

1 J. WANGEL

2 Q At this point in time in September  
3 26, 2018.

4 A Mr. Campese works at the mayor's  
5 office.

6 Q That's where he worked in  
7 September 26, 2018?

8 A He worked for the central office.

9 Q Just for purposes of clarity of  
10 the record, when you're saying the central  
11 office, central office means H&H's central  
12 office?

13 A Right.

14 Q At 55 Water Street.

15 A They have a number of buildings,  
16 but that's one where he was working, yes, at  
17 55.

18 Q That is where he was working  
19 Mr. Campese?

20 A I believe so.

21 Q And where were you working  
22 exactly, physically?

23 A Fifty-five Water Street.

24 Q And you were at CHS at that time;  
25 am I right?

1 J. WANGEL

2 A That's correct.

3 Q Now, I'm going to scroll up, and  
4 I'm not sure if I'm going to get this one  
5 right, but this Kerry Kolodziejski,  
6 basically he is emailing Mr. Campese and  
7 yourself. And the subject is total work  
8 hours; you see that, right?

9 A Yes, I do. It's a variation  
10 sheet.

11 Q And Kerry says just checked the  
12 percentage of FTE of 20k and came up with  
13 the same numbers you provided below; you see  
14 that, right?

15 A I can see it.

16 Q So then we go up. And then you  
17 say, I confirmed all the list are board  
18 certified in psychiatry. Do you need me to  
19 send supporting documentation?

20 You see that, right?

21 A I do.

22 Q Now, when you say you have  
23 confirmed they are all board certified, are  
24 you saying that they are, that all their  
25 licenses are current, or if they are

1 J. WANGEL

2 certified in a given area of psychiatry?

3 A I believe it's an area of  
4 psychiatry. Yeah, the area of the  
5 psychiatry.

6 Q So then Mr. Campese then emails  
7 you back. Mr. Wangel on September 27. He  
8 said I don't think we need it. Your  
9 confirmation should be good enough. Diane,  
10 can the below docs be added to the payment  
11 list at the amount listed below.

12 So you all are making the  
13 determination that Dr. Kaye is entitled to a  
14 part-time or partial payment based on the  
15 representations of Ms. Mulett who you  
16 testified did not work at H&H at that time.

17 A That's incorrect.

18 Q Okay. So explain.

19 A So Ms. Mulett I believe, I don't  
20 know, but by virtue of the fact that she has  
21 an NYC e-mail address I'm assuming she  
22 worked at Bellevue, if not, she could have  
23 worked for the central office. But she's an  
24 H&H employee.

25 Q Okay. So you earlier testified



1 J. WANGEL

2 that Bellevue would have had these payroll  
3 records and time of leave records and they  
4 would have been the entity that would have  
5 determined whether or not Dr. Kaye was a  
6 full-time employee or a part-time employee,  
7 right?

8 A They don't determine whether or  
9 not people are part-time. All they do is  
10 calculation based on hours worked. They  
11 review the time records of the actual hours  
12 worked, which is what Ms. Mulett did, and  
13 break down the .67, part of the e-mail  
14 chain. That's how the payment gets  
15 calculated. The facility worked at  
16 determines whatever the FTE status was.

17 Q Who did Ms. Mulett report to?

18 A I don't know. Again, I believe  
19 she worked for Bellevue or at Bellevue she's  
20 an employee of Health and Hospitals working  
21 at Bellevue. I would guess.

22 Q Now, you say, FYI, FYI, and you  
23 send this to Ms. Laboy; you see that, right?

24 A I do.

25 Q So what happens after you send

1 J. WANGEL

2 this FYI e-mail to Ms. Laboy; do you  
3 remember any further?

4 MS. CANFIELD: Objection as to  
5 form. You can answer.

6 A I don't. I mean I was sending it  
7 to them to let them know it could be a  
8 process.

9 Q Let's see if this can help. Going  
10 to show you another exhibit. This is going  
11 to be Plaintiff's Exhibit Six, and it will  
12 be marked as such.

13 (Whereupon, e-mail  
14 (Kaye3rdProd\_68-70) was marked  
15 as Plaintiff's Exhibit 6 for  
16 identification as of this date.)

17 MS. HAGAN: Now, I redacted  
18 this because Dr. Kaye sent this to  
19 me. So this portion that's redacted  
20 is because it's an e-mail to me.  
21 I'm going down to the portion that  
22 was part of the original e-mail.

23 MS. CANFIELD: Have these  
24 documents been produced?

25 MS. HAGAN: Yes, they have.

1 J. WANGEL

2 MS. CANFIELD: When were they  
3 produced?

4 MS. HAGAN: I'm not sure,  
5 Counsel, but they were certainly  
6 produced as exhibits today, but they  
7 were also produced.

8 MS. CANFIELD: Did you produce  
9 a privilege along with the  
10 redactions?

11 MS. HAGAN: There were no  
12 privilege logs.

13 MS. CANFIELD: They have  
14 redacted comments.

15 MS. HAGAN: No. You received  
16 these documents with the same  
17 redactions, and you never raised the  
18 issue until today.

19 MS. CANFIELD: You just told  
20 me we got them at 5:00 o'clock in  
21 the morning, so we would not have  
22 had an opportunity to review  
23 everything. It's the attorney's  
24 responsibility to provide the  
25 privilege log.

1 J. WANGEL

2 MS. HAGAN: You had these  
3 documents already. I reproduced  
4 them, so it will be easier to review  
5 the exhibits, Ms. Canfield.

6 MS. CANFIELD: We'll take this  
7 up with the Court.

8 MS. HAGAN: Yes, you have  
9 them. You'll see that you have them  
10 in the initial productions. I just  
11 produced them again, like you did.

12 Q So for purposes of this deposition  
13 today the documents represented for Exhibit  
14 Six bears the Bates stamp series  
15 Kaye3rdProduction 68, 66, 69, 70. And for  
16 purposes of Mr. Wangel's review. First and  
17 foremost you'll see that the document is  
18 from Mr. Santa Maria.

19 Do you have any familiarity with  
20 Mr. Santa Maria?

21 A I do.

22 MS. CANFIELD: Objection as to  
23 form. You can answer.

24 Q You said you do, right, Mr.  
25 Wangel?

1 J. WANGEL

2 A I do. He works at Doctors  
3 Counsel.

4 Q Who is he?

5 A He's a representative.

6 Q And then you have the date is  
7 October 4, 2018; you see that, right?

8 A I do.

9 Q And the e-mail -- and Mr. Santa  
10 Maria is addressing Mary Badaracco; do you  
11 recall who that is?

12 A I do not.

13 Q And it CC'd Dr. Kaye and the  
14 subject is Dr. Kaye's retention bonus.  
15 Would it be fair to say that Dr. Badaracco  
16 may have been Dr. Kaye's supervisor while  
17 she was at Bellevue?

18 MS. CANFIELD: Objection to  
19 form.

20 A I don't know. It could have been.  
21 I don't know.

22 Q Let's go further. In this  
23 subsequent e-mail Dr. Badaracco sends an  
24 e-mail to Nate Santa Maria, Todd Hixson and  
25 Jeremy Colley. Do you know who Jeremy

1 J. WANGEL

2 Colley was at that time?

3 A I don't know.

4 Q Do you know who Dr. Colley was at  
5 any given time?

6 A I don't believe so, no. I don't  
7 recall the name.

8 Q Do you recall the person named  
9 Todd Hixson?

10 A I don't.

11 Q So Dr. Badaracco writes in  
12 response to the subject Dr. Kaye's retention  
13 bonus. Hi, I'm writing to confirm that  
14 Dr. Kaye was employed full-time as an  
15 attending psychiatrist by Bellevue Hospital  
16 working at the Bronx court clinic from  
17 July 1, 2017, through June 30, 2018, and so  
18 is eligible for the full H&H psychiatry  
19 retention bonus. Dr. Kaye's paymaster  
20 became H&H Correctional Health on July 1,  
21 2018.

22 Did you see this at any point?

23 A I don't recall. It's possible,  
24 yes. I'm not copied on this chain. It's  
25 possible. I don't recall seeing this --

1 J. WANGEL

2 Q Now, Dr. Badaracco was the chief  
3 of psychiatry at Bellevue and Dr. Colley's  
4 boss. Do you recall that, do you recall  
5 vaguely coming across her name during the  
6 course of the transition?

7 MS. CANFIELD: Objection to  
8 form. You can answer.

9 A It's possible, yes, but I don't  
10 recall.

11 Q Let's go to another portion of  
12 this e-mail where you're involved, right.  
13 So Dr. Badaracco then says, I appreciate  
14 working with you on trying to resolve Dr.  
15 Kaye's retention bonus for July 2017 to  
16 June 2018. As we spoke this afternoon, Dr.  
17 Kaye fulfills all the criteria to receive  
18 the retention payment. If you are in  
19 agreement, please confirm.

20 So, I guess, Mr. Santa Maria was  
21 emailing Dr. Badaracco and Dr. Kaye  
22 confirmed; you see that, right?

23 A I see the e-mail, yeah.

24 Q Now, I'm going to show you another  
25 e-mail. Then and this will be marked as

1 J. WANGEL

2 Plaintiff's Exhibit Seven.

3 (Whereupon, e-mail (NYC\_797) was  
4 marked as Plaintiff's Exhibit 7  
5 for identification as of this  
6 date.)

7 Q Now, Plaintiff's Exhibit Seven  
8 bears the date stamp series NYC\_797. And  
9 it's from you, Mr. Wangel, to Ms. Laboy.  
10 I'll give you an opportunity to read it.  
11 And it's dated --

12 A I'm a little confused. The top of  
13 this says it's from me, but the e-mail says  
14 from Dr. Kaye.

15 Q Right. It seems you have  
16 something you must have forwarded to --

17 A Right, okay.

18 Q So who's Wayne Myrie; do you  
19 remember him?

20 A Works for the central office  
21 payroll.

22 Q And she puts Dr. Badaracco,  
23 Mr. Santa Maria, Peter Moreinis, Pedro  
24 Rivera, Mr. Campese and Dr. Colley. Now, do  
25 you recall anyone else on this e-mail



1 J. WANGEL

2 thread. For example, Peter Moreinis, do you  
3 know who he is?

4 A Peter I don't know. Some of the  
5 folks on this --

6 Q What about Pedro Rivera?

7 A Yeah.

8 Q And who is he?

9 A He was or still is did the  
10 director of labor relations for Bellevue  
11 hospital.

12 Q Now, Dr. Kaye points out that she  
13 worked full-time at Bellevue starting  
14 May 2000 through June 30, 2018. She  
15 basically points out again she was the  
16 eligible for the full retention payment.  
17 But unfortunately she received a partial  
18 payment because she was incorrectly listed  
19 as part-time by central office.

20 You see that, right?

21 A I see that, yes.

22 Q After you received this e-mail,  
23 what did you do? Do you recall?

24 MS. CANFIELD: Objection to  
25 form. Go ahead.

1 J. WANGEL

2 A I do not.

3 Q What would you have done since you  
4 don't recall what you did in this instance?

5 A The e-mail is from Dr. Kaye to the  
6 central office payroll. Addressing, again,  
7 for prior work at Bellevue. Correctional  
8 Health did not have any part in, and did not  
9 do the calculations for. This is all about  
10 hours worked prior to coming to Correctional  
11 Health. So, again, in my role at CHS the  
12 calculation is all based on Bellevue  
13 time-keeping records.

14 So, again, we would have had been  
15 central office Bellevue working out the  
16 exact hours worked and time to pay to try  
17 and determine to say what entity she was  
18 and --

19 Q Now, at any point did you tell  
20 Nate Santa Maria or Kevin Colley, I guess,  
21 Dr. Yang or Dr. Jain were myths that Dr.  
22 Kaye filed an EEOC charge?

23 MS. CANFIELD: Objection to  
24 form. You can answer.

25 A So I'm sorry it froze for like a

1 J. WANGEL

2 second.

3 Q Did you either tell Mr. Santa  
4 Maria or Mr. Collins that Dr. Jain and Dr.  
5 Yang were myths that Dr. Kaye had filed an  
6 EEOC charge?

7 MS. CANFIELD: Objection to  
8 form. You can answer.

9 A I don't believe I said that.

10 Q So you never said that. And Dr.  
11 Kaye believes and has alleged that this  
12 partial payment of her retention bonus was  
13 in retaliation for her EEOC charge. Were  
14 you aware that Dr. Kaye at that point had  
15 filed an EEOC charge?

16 A I don't recall. I don't remember  
17 the timing.

18 Q Do you ever remember that Dr.  
19 Kaye -- at any point did you remember Dr.  
20 Kaye filing an EEOC charge?

21 A I remember this -- I don't recall  
22 the other charge, if there is one.

23 Q I'm going to show you again  
24 another exhibit. Okay. I'm going to mark  
25 this as Plaintiff's Exhibit Eight.

1 J. WANGEL

2 (Whereupon, e-mail (NYC\_544) was  
3 marked as Plaintiff's Exhibit 8  
4 for identification as of this  
5 date.)

6 Q And Plaintiff's Exhibit Eight  
7 bears the Bates stamp series NYC\_544.

8 Scroll down to the bottom, so that  
9 you can see this. The first portion of the  
10 e-mail thread is from Dr. Yang and it's  
11 addressed to, I guess, Dr. MacDonald and Dr.  
12 Ford. And then you're CC'd along with  
13 Ms. Laboy.

14 You see that, right?

15 A I do.

16 Q And then this is dated  
17 September 19. You see that, right?

18 A Yes.

19 Q And then Dr. Yang then emails you,  
20 Mr. Wangel, again with Ms. Laboy. And she  
21 CCs Drs. Ross and Ford, and the subject  
22 again is Dr. Kaye, right?

23 A Yes.

24 Q And she ask, can you send us the  
25 full, I guess, ATT A, would that be

1 J. WANGEL

2 attachment A?

3 A I was actually trying to figure  
4 out what that was too, but that sounds  
5 plausible.

6 Q Also please clarify this is  
7 appended to the older claim against Bellevue  
8 Hospital corporation alleging gender pay  
9 discrimination, which I thought got  
10 resolved.

11 Do you recall Dr. Yang actually  
12 raising this question?

13 A I just remember what you're  
14 showing me in the e-mail thread.

15 Q No. I'm just asking you whether  
16 or not you had discussions with Dr. Yang  
17 about Dr.Kaye's EEOC charge?

18 A From what I recall -- I mean I do  
19 know there was a claim regarding, I guess,  
20 pay while at Bellevue. Again, as my  
21 capacity in labor relations I would not get  
22 involved in that type of issue. It's not a  
23 grievance. If it's a discrimination claim,  
24 it goes to the EEOC and address like every  
25 other claim, which is why, yes, Blanche

1 J. WANGEL

2 Greenfield is involved.

3 Q It appears you have some  
4 involvement this e-mail right above it.  
5 It's from you to Dr. Yang, Ms. Laboy, and  
6 you say I don't have the completed  
7 attachment A. You have some attachment.  
8 Now, you're saying you're waiting for  
9 Blanche to resend. We the office of Labor,  
10 OLA, I guess office of labor -- what's the  
11 A?

12 A I'm not sure why it says OLA.

13 Q Was it a typo, you believe?

14 A I'm not sure. Could be a typo.

15 Q You said you responded to the  
16 older claim, but you do again. But don't  
17 think there was a final disposition. OLA  
18 will have to submit an emailed response the  
19 new issues.

20 A The OLA is the office of legal  
21 affairs, but we -- oh, so I'm saying, we, we  
22 as a system, I believe. Right? Not, we,  
23 meaning my office at Correctional Health. I  
24 was not then part of the office of legal  
25 affairs. I think I responded to the older

1 J. WANGEL

2 office legal.

3 (reporter clarification.)

4 A So in my e-mail the Wednesday,  
5 September 19, 2018, 11:42 a.m. e-mail, I  
6 write, that I don't have the complete  
7 attached A and I'm waiting for Blanche to  
8 resend. And this in response to Dr. Yang's  
9 e-mail asking me send full attached A. So  
10 when I write we, we the system, we in a  
11 broader sense, we -- a broader office of  
12 legal affairs, that they, legal affairs,  
13 responded to the older claim, but I don't  
14 think there was a final disposition. To say  
15 OLA will have to submit an amended response  
16 for the new issues based on this e-mail  
17 complaint.

18 Q So just to be clear were you not a  
19 part of the office of legal affairs at this  
20 time in September 19, 2018?

21 A That's correct.

22 Q Okay. And then you say that there  
23 was an actual response, which would be akin  
24 to the position statement; would that right?

25 MS. CANFIELD: Objection as to

1 J. WANGEL

2 form. You can answer.

3 A I guess so. I don't recall  
4 specifically. I just remember what you're  
5 showing me now.

6 MS. HAGAN: To the extent they  
7 exist, I call for the production of  
8 the Office of Legal Affairs position  
9 statement to Dr. Kaye's initial EEOC  
10 complaint. I'll followup in  
11 writing, and I'm sure Ms. Canfield  
12 will take it under advisement, but I  
13 definitely will put it in writing.

14 Q So then Dr. Yang responds to you  
15 on the 19th, Mr. Wangel, CC'ing Dr. Ross and  
16 Dr. Ford. Saying, I think Bellevue paid up.  
17 So this new complaint with old complaint  
18 face sheet is puzzling.

19 So what does she mean that  
20 Bellevue paid up; what does she mean by  
21 that?

22 A I have no idea. I don't recall.

23 Q And then you e-mail Ms. Greenfield  
24 and you ask her if she has a minute, right?

25 A That's what it says, yeah.



1 J. WANGEL

2 Q Were you directed to reach out to  
3 Ms. Greenfield?

4 A I don't believe so, no.

5 Q You just did so on your own  
6 volition?

7 A Are you asking me?

8 Q Yes.

9 A Again, this is years ago. I dealt  
10 with Ms. Greenfield on almost --

11 Q Your supervise said she thought  
12 that the issue would be resolved by  
13 Bellevue. Why would you feel compelled to  
14 reach out to Ms. Greenfield?

15 MS. CANFIELD: Objection as to  
16 form. You can answer?

17 A Again, hard to say. I don't have  
18 it. I'm not familiar with this, but I'm  
19 reaching out to the party that would.

20 Q Then Ms. Greenfield responds that  
21 she's out for now, right?

22 A That's what the e-mail says.

23 Q Right. So then I'm going to show  
24 you another document, and this is going to  
25 be Plaintiff's Exhibit Nine.

1 J. WANGEL

2 Let me share the screen I'm sorry.

3 Mr. Wangel, so Plaintiff's Exhibit  
4 Nine bears the Bates stamp series  
5 Kaye3rdProduction 109 through 110, 111, and  
6 112. And I'm going to start at the bottom  
7 of exhibit, which would be Dr. Kaye's EEOC  
8 charge. You see this, right?

9 A I do.

10 (Whereupon, e-mail  
11 (Kaye3rdProd\_109-111) was marked  
12 as Plaintiff's Exhibit 9 for  
13 identification as of this date.)

14 Q Have you seen an EEOC charge  
15 before?

16 A I believe so, yes.

17 Q Now, in this charge Dr. Kaye is  
18 alleging she's been discriminated against  
19 based on her sex. You see that, right?

20 MS. CANFIELD: Objection. You  
21 can answer.

22 A Yeah.

23 Q And she also alleges this is a  
24 continuing action. You see that, right?

25 A I see the box, yes.

1 J. WANGEL

2 Q Then Dr. Kaye goes on to say she's  
3 a 55-year-old Caucasian female who worked at  
4 Bellevue hospital and HHC since 1999. Most  
5 recently as Bronx Court Clinic medical  
6 director. And she says, she believes she's  
7 been discriminated against based on her sex,  
8 unequal pay act as amended in title 7 as  
9 amended. Specifically I've been paid less  
10 than the male Manhattan court clinic medical  
11 directors despite having the same title and  
12 job duties. I've been paid under an  
13 attending three titles since 1999, while the  
14 men that worked at the Manhattan court  
15 clinics medical directors have been paid a  
16 physician specialist title. The physician  
17 specialist title carries a significant pay  
18 increase and male Manhattan court clinics  
19 medical directors have made significantly  
20 more money than I over the almost past 20  
21 years I have worked there. I believe I was  
22 given an attending three title and under  
23 paid compared to my male counterparts  
24 because of my sex. Based on the above I  
25 believe I have been discriminated against

1 J. WANGEL

2 because of my sex in violation of the equal  
3 pay act in 1963. Now, you've seen this,  
4 right?

5 MS. CANFIELD: Objection. You  
6 can answer.

7 A I believe so.

8 Q Now, for purposes of just  
9 establishing a bit of a time line. This  
10 EEOC chart was filed on May 22, 2018. You  
11 see that, right?

12 A Yes.

13 Q And then Dr. Kaye supplements her  
14 charge, right, and just for purposes of just  
15 seeing this, she supplements her charge in  
16 September of 2018. That I'm going to allow  
17 you to read the supplement, or at least try  
18 to get through that. I want you to see what  
19 she alleges here as well.

20 Would that be fair?

21 A Sure.

22 MS. CANFIELD: Where does it  
23 say that it was filed. I see that  
24 it was signed, but I don't see where  
25 this is filed on that date.

1 J. WANGEL

2 Am I missing something?

3 MS. HAGAN: Well, we can go to  
4 that as well.

5 A (Reading.)

6 Q Now, first off I want to establish  
7 the timeframe again. Which you may have  
8 received this document or seen this document  
9 initially. Again, going back to Exhibit  
10 Eight. There is a discussion amongst you,  
11 Dr. Yang and a Ms. Greenfield discussing Dr.  
12 Kaye and the Attachment A, which would have  
13 been found in Exhibit Nine, Attachment A.  
14 You see this, right?

15 A I see it, yes.

16 Q And Exhibit Eight is dated  
17 September 19th. You see that, right?

18 MS. CANFIELD: I'm sorry,  
19 where are you saying?

20 Q In the emails from Dr. Yang asking  
21 about Attachment A, which dealt with a  
22 supplemental EEOC charge. We went through  
23 that.

24 So now, I'm going to ask you some  
25 questions about this EEOC charge that Dr.

1 J. WANGEL

2 Kaye filed. First and foremost, did you  
3 remember or recall any of Dr. Kaye's  
4 allegations of gender discrimination based  
5 on pay, and I guess, what you guys would  
6 call functional clout?

7 MS. CANFIELD: Objection to  
8 form. You can answer, if you're  
9 able.

10 A I'm familiar with the underlying  
11 issues that are raised. As far as the  
12 specific gender, no, I don't remember having  
13 any direct conversations about  
14 discrimination.

15 Q The physician specialist title a  
16 superior title than the attending physician  
17 title?

18 MS. CANFIELD: Objection. You  
19 can answer.

20 A I'm actually not certain.

21 Q When this complaint came in, when  
22 this charge came in, did you do any research  
23 to find out whether or not Dr. Kaye's  
24 allegations had any merit?

25 MS. CANFIELD: Objection. You

1 J. WANGEL

2 can answer.

3 A I don't believe I did.

4 Q Okay. Why not?

5 A Because in my role at Correctional  
6 Health it wasn't my job. Discrimination  
7 complaints are addressed by the office of  
8 EEO. Not by me.

9 Q Now, did you ever -- so let's see.  
10 So you didn't look into this, this  
11 particular complaint, right? Now, the  
12 discussion that you had between you and  
13 Dr. Yang, Ms. Greenfield and any member of  
14 the H&H management.

15 Did you look into any of the  
16 allegations of the supplemental charge of  
17 discrimination that Dr. Kaye filed?

18 MS. CANFIELD: Objection to  
19 form. You can answer.

20 A I don't believe so. I mean I  
21 remember having discussion about -- but not  
22 anything directly in response to this  
23 charge.

24 Q Did Dr. Jain ever reach out to you  
25 and tell you that Dr. Kaye filed a EEOC

1 J. WANGEL

2 charge?

3 A I don't recall.

4 Q Now, in her supplemental charge  
5 Dr. Kaye says, Dr. Jain called me the very  
6 next day to inform me that he reported my  
7 actions to Jonathan Mr. Wangel, senior  
8 director of labor relations.

9 You see that, right?

10 A I do.

11 Q And you're saying you don't  
12 remember this happened, right?

13 A I don't recall the discussion with  
14 Dr. Kaye about the EEOC charge.

15 Q What about the discussion about  
16 Dr. Kaye's title being reduced from medical  
17 director to director.

18 Do you recall that exchange?

19 MS. CANFIELD: Objection as to  
20 form. You can answer.

21 A I don't.

22 Q So you're not aware of any  
23 occurrences on July of 2018 where Dr. Kaye  
24 may have circulated the emails expressing  
25 concern about being demoted from medical



1 J. WANGEL

2 director to director of the Bronx court  
3 clinic?

4 MS. CANFIELD: Objection.

5 A Yeah, she may have. Again, this  
6 is a while back. I don't recall the  
7 specifics. I'm really not sure --

8 Q Would a functional title change of  
9 this nature been a broken promise by you Mr.  
10 Wangel from that April 30th meeting that we  
11 discussed?

12 A I would say no.

13 Q Why not?

14 A One, the office of labor relations  
15 has nothing to do with the title change. I  
16 think the title change here was due to  
17 uniformity. I think there was, if I recall  
18 correctly, everybody functionally had the  
19 same title or the same goal. When Dr. Kaye  
20 came forward over to CHS as the discussion  
21 we had prior to, no change in compensation,  
22 time, union, pension and everything we  
23 discussed, remained the same. So...

24 Q But in the April 30th e-mail that  
25 Dr. Kaye sent to you in the wake of this

1 J. WANGEL

2 meeting one of the things she specifically  
3 asked was whether or not her title changed  
4 from medical director. According to that  
5 e-mail it appeared that you assured her  
6 that it would not change, you and Ms. Laboy.

7 Do you recall that or do we need  
8 to go back to that e-mail?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A Yeah. We need to go back. When I  
12 have conversation I'm speaking about civil  
13 service titles, not functional titles.  
14 Right.

15 Q But she specifically said or asked  
16 you about the medical director title, so  
17 let's go back to that. Because she listed  
18 --

19 A Can I just say -- I would never  
20 make an assertion that in perpetuity, the  
21 title wouldn't change, the issue wouldn't  
22 change. I mean nobody is guaranteed the  
23 exact same circumstances for the entirety of  
24 their employment for the future. I could  
25 never make a claim that way.

1 J. WANGEL

2 When I spoke to Dr. Kaye we were  
3 talking about compensation based items,  
4 along with, again, union membership,  
5 pension, things like that. Between myself  
6 and Ms. Laboy and everything else would  
7 remain the same as far as compensation,  
8 time, pension, all of that stuff.

9 Q I want to direct your attention to  
10 Exhibit Two, which bears bate series NYC\_513  
11 and then number 14. And Dr. Kaye asked you  
12 from based on her, from the conversation she  
13 had with you and Ms. Laboy during that  
14 meeting, right. Number 14, she says, my job  
15 description and title of medical director  
16 remained unchanged. Right? I will continue  
17 to perform forensic psychiatric evaluations  
18 at the Bronx criminal supreme courts and  
19 provide administrative functions at the  
20 Bronx Court clinic.

21 Now, she clearly she believed that  
22 after her conversations with the two of you  
23 that she was going to continue in her  
24 capacity after the transition to CHS. Is  
25 that clear from just this e-mail on

1 J. WANGEL

2 April 30?

3 MS. CANFIELD: Objection. You  
4 can answer.

5 A All I see from this e-mail from  
6 April 30th is what Dr. Kaye is -- exactly  
7 what's here in this e-mail. She's says my  
8 current benefits at Bellevue are, and goes  
9 through a list of items.

10 Q At any point if she was mistaken,  
11 Mr. Wangel, why did didn't you correct her  
12 because this is clearly her synopsis of the  
13 meeting? If she was incorrect, why didn't  
14 you correct her, if that was the case?

15 MS. CANFIELD: Objection to  
16 form. You can answer.

17 A I'm looking. I am almost positive  
18 I had multiple conversations with Dr. Kaye  
19 and doctor's counsel about these issues.  
20 Again, I am not in charge of health  
21 services, I am not in charge of FPECC and I  
22 can not assert with all perpetuity that all  
23 of those items would remain unchanged.

24 At the time of the transition, I  
25 provided as much information as I could to

1 J. WANGEL

2 try to help Dr. Kaye -- give her information  
3 about benefits, time, all that stuff. I  
4 mean it was never, none of this was ever  
5 done in any intention with malice or to  
6 reduce compensation or anything like that.

7 Can I say I've never corrected any  
8 of those items, no. You're showing a list  
9 of 14 or 15 items that Dr. Kaye is saying  
10 these are her current duties.

11 Q Now, I'm going to go back to  
12 Exhibit Two. Now, Exhibit Two, was dated  
13 April 30; you see that, right, Exhibit Two?

14 A Yes.

15 Q Now, Exhibit Nine, which is Dr.  
16 Kaye's EEOC charge was dated May 22, 2018.  
17 You see that, right?

18 A I see the signature.

19 Q Now, I'm going to show you what  
20 will be marked as Exhibit Ten. Now, the  
21 Exhibit Ten bears the Bates stamp series  
22 NYC\_259.

23 (Whereupon, e-mail (NYC\_259) was  
24 marked as Plaintiff's Exhibit 10  
25 for identification as of this

1 J. WANGEL

2 date.)

3 Q I'm going to give you an  
4 opportunity to review the exhibit before you  
5 get a chance to talk about it. Now, again,  
6 it starts with the discussion on April 30th.  
7 You see that, right?

8 A I do.

9 Q As we scroll up there's an e-mail  
10 from Dr. Kaye to Dr. Jain and CC'd  
11 Ms. Swenson, and it's dated Monday, June 4,  
12 2018. You see that, right?

13 A I do.

14 Q Just to kind of have a clear  
15 record. On June 4, 2018, Dr. Kaye says:  
16 Hi, Beesh. I wanted to loop you in on my  
17 situation since I'm not sure what's been  
18 communicated to you and Andrea. I have  
19 worked at the Bellevue hospital Bronx court  
20 clinics since 1999. And I have been medical  
21 director from 2004 to the present. My  
22 current line is being transferred from  
23 Bellevue to CHS under the auspices of HHC  
24 regarding my position benefits titled job  
25 description, etc, CHS HR and Doctors'

1 J. WANGEL

2 Council union reached an agreement in  
3 February 2018 that everything will stay the  
4 same and nothing will change. The funding  
5 of my line and reporting structure, however,  
6 will change. I will report to you rather  
7 than Jeremy Colley, and I will be paid by  
8 CHS rather than Bellevue.

9 Now, just to be clear the  
10 conversation that Dr. Kaye memorialized to  
11 the extent that she could took place on  
12 April 30. You see this, right?

13 MS. CANFIELD: Objection. You  
14 can answer.

15 A I see the e-mail dated April 30.

16 Q Right. Then on June 4th, she's  
17 having a discussion with Dr. Jain about her  
18 title being changed and who she reports to  
19 being changed.

20 You see that, right?

21 A I do.

22 Q So do you recall who was  
23 responsible for changing who Dr. Kaye  
24 reports to?

25 A I mean I know I can recall the

1 J. WANGEL

2 hierarchy of the leadership structure. I  
3 don't know who ultimately made the decision.

4 Q Well, did you play a part in  
5 making the decision in her reporting  
6 structure would change?

7 A No.

8 Q Then Dr. Jain responds. Thought  
9 you should be aware of this from Melissa,  
10 this all started with the business cards  
11 being -- I guess he's emailing Dr. Ford.  
12 Thought you should be aware of this from  
13 Melissa. This all started with the business  
14 cards being ordered as Director for court  
15 clinic directors. I also looked at the  
16 positing and my own hiring paperwork, and it  
17 indicates the position as director. Not a  
18 problem, but just so you know, the  
19 designations was out of left field.

20 So did you ever speak to Dr. Jain  
21 about the title change?

22 A It's possible, but I don't recall  
23 specifically.

24 Q Did you ever speak to Dr. Ford  
25 about the title change?



1 J. WANGEL

2 A Same. Possible. I don't recall  
3 any specific conversations about it.

4 Q So do you recall Dr. Kaye raising  
5 this issue with you or having questions  
6 about why this title change and she believed  
7 whether or not it was in retaliation for her  
8 complaint?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A I just remember the issue in  
12 general. I don't remember a specific  
13 conversation. If I recall correctly the  
14 position as director was just the sort of  
15 had uniformity from site to site. That's  
16 all I recall about this.

17 Q You said knew that it involved a  
18 matter of having uniformity from site to  
19 site.

20 Why are you privy to this effort,  
21 if you had no part in the decision-making  
22 process, Mr. Wangel?

23 MS. CANFIELD: Objection.

24 Argumentative. You can answer.

25 A I mean there were so many other

1 J. WANGEL

2 issues raised by Dr. Kaye I can't recall  
3 some of the conversations I had. Honestly,  
4 I don't recall. I don't have a role when it  
5 comes to what title --

6 Q You said there were so many issues  
7 being risen by Dr. Kaye. What do you mean  
8 by that?

9 A I dealt with Dr. Kaye, Doctors'  
10 Council on a whole bunch of time keeping  
11 issues, lunch break, pay issues. Pretty  
12 much everything we discussed thus far today.

13 Q And did you resolve any of those  
14 issues?

15 A You'd have to be more specific.

16 Q Well, let's go back to the  
17 retention bonus. We didn't quite finish  
18 that.

19 Now, the exhibit that's going to  
20 be shown here will be marked as Plaintiff's  
21 Exhibit 11. It bears the bait stamp series  
22 NYC\_886, NYC\_882, NYC\_883, NYC\_884, 885,  
23 886, 887 and 888.

24 (Whereupon, e-mail (NYC\_882-888)  
25 was marked as Plaintiff's

1 J. WANGEL

2 Exhibit 11 for identification as  
3 of this date.)

4 Q Now, it should be noted that  
5 Defendant's production. This is how it  
6 looked, how it was produced. If you prefer  
7 to read it in this current capacity  
8 especially pages of 888, 887, 886 and 885,  
9 please let me know. That's going to be  
10 pretty hard to read, but it's up to you.

11 A I'm fine.

12 Q So again, we have the same  
13 announcement that we discussed earlier,  
14 designating Dr. Kaye to a part-time status.  
15 You see that, right?

16 A .67.

17 Q Right, and \$13,400 retention. And  
18 then the confirmation from Kerry  
19 Kolodziejski of the percentage of 20,000  
20 that the purported .67, I guess, board  
21 status would have equated to. Then you said  
22 you confirmed them all again. So these are  
23 the earlier emails that we went through, and  
24 then let's see. Let's keep going.

25 Here it is. Then on

1 J. WANGEL

2 November 14, 2018. You said these were the  
3 calculations on Kaye, which appear to be  
4 double checked. Possible they can prepare a  
5 breakdown that we can forward to Doctors'  
6 Council and Kaye. What did you mean by  
7 that? Do you remember?

8 A Yeah, sure. So I think we were  
9 trying to provide Doctors' Council with back  
10 up of how it was derived. It's not just  
11 somebody in payroll saying .67. We wanted  
12 to show exactly how we came to that .67.

13 Q Then we go to Colleen Barrow.  
14 Where does Ms. barrow work at this time; do  
15 you know?

16 A She was at Correctional Health the  
17 last time -- I haven't talk talked with her,  
18 Ms. barrow in a while. I'm not sure since  
19 COVID.

20 Q What unit was she working in?

21 A Payroll.

22 Q Was she working with you? You  
23 were in labor relations, and payroll, Is  
24 that a unit that worked closely together  
25 with labor relations, or was it just a

1 J. WANGEL

2 different side of it?

3 A It's not assumably a part of the  
4 Department of Labor, but there was a  
5 transition to a electronic time keeping at  
6 Correctional Health, which required a whole  
7 lot of union. So early on -- time keeping  
8 was certainly a challenge. It's a different  
9 pay Kronos. Eventually we went to  
10 electronic time keeping. So at one point  
11 time keeping did fall under my purview.  
12 There was Ms. Barrow was a member of  
13 payroll.

14 Q So Ms. barrow was a member of  
15 payroll team who worked under you at one  
16 time; is that right?

17 A That's correct.

18 Q So then she says to you, Jonathan,  
19 I sent an e-mail to Angela Mulett, wages and  
20 salary -- that's another unit?

21 A I believe that's the central  
22 office wages and salaries, but yes, that's  
23 correct.

24 Q She had wages and salary. I'm  
25 just reading the e-mail.

1 J. WANGEL

2 A Yeah.

3 Q Dr. Kaye should have received the  
4 full \$20,000 retention amount because she is  
5 equal time employee working 40 hours per  
6 week. Her full-time employment status  
7 should be one not .67. You see that, right?

8 A I do.

9 Q Now, Ms. Barrow works for you, and  
10 she made the determination; is that correct?

11 A I don't know. Based on this  
12 e-mail I don't know if she just --  
13 Ms. Barrow said Dr. Kaye should receive the  
14 full 20k because she's a full-time employee  
15 working 40 hours. That's what the e-mail  
16 read.

17 Q How did she make this  
18 determination when you have a e-mail thread  
19 that spans at least a month saying  
20 otherwise; how did that happen?

21 MS. CANFIELD: Objection as to  
22 form. You can answer.

23 A Yeah. From what I recall because  
24 Dr. Kaye raised a concern and Doctors'  
25 Council was involved we at Correctional

1 J. WANGEL

2 Health was trying to verify the Bellevue  
3 calculation. Right. Colleen was working on  
4 that in conjunction with a whole list of  
5 other folks, and that's why she was  
6 involved.

7 Again, CHS does not have  
8 involvement and should -- we were triple  
9 checking Bellevue calculations, which we  
10 really shouldn't be doing, but we were doing  
11 to try to respond Doctors' Council and get  
12 Dr. Kaye paid correctly.

13 Q Now, Dr. Kaye disputes the  
14 motivation and she attributes this problem  
15 to ongoing retaliation from her EEOC charge.  
16 Would you disagree with that?

17 MS. CANFIELD: Objection as to  
18 form. You can answer.

19 A I am unaware of discriminating  
20 against Dr. Kaye, including myself, anybody  
21 in my office -- Dr. Kaye, in which way or  
22 form. It was completely unacceptable if  
23 that were the case.

24 Q Then you, Mr. Wangel, respond to  
25 Ms. Barrow, Angela responded. I'm guessing

1 J. WANGEL

2 you're talking about Ms. Mulett.

3 MS. CANFIELD: Is that a  
4 question?

5 Objection. You can answer.

6 Q You were speaking to Ms. Angela  
7 Mulett; is that right?

8 A I believe so, yes.

9 Q Now, we're scrolling up and this  
10 is the New York City health and hospital  
11 corporation time sheet profile request,  
12 right, is this the same system that's in  
13 place right now?

14 MS. CANFIELD: Objection as to  
15 form. You can answer.

16 A Yes.

17 Q So here you have, I guess, a  
18 discussion or a break down of Dr. Kaye's  
19 actual work time and annual leave time and  
20 then a host of other fields, right. Now,  
21 this actual print out doesn't necessarily  
22 disclose how many hours she worked for the  
23 time period shouldn't there be another print  
24 out here, Mr. Wangel?

25 MS. CANFIELD: Objection to



1 J. WANGEL

2 form. You can answer.

3 A I'm not a 100 percent certain. It  
4 does -- there is actual work time, which I  
5 believe is like physical hours worked not  
6 other paid time, like, annual or sick that  
7 are shown below. I'm not sure what you mean  
8 should there be another screen.

9 Q Well, it says actual time usage I  
10 mean it looks like it's 113 for this year  
11 period; is that accurate?

12 A Honestly, I'm not the expert when  
13 it comes the main frame system we did have  
14 somebody to take care of --

15 Q So you're not even sure just based  
16 on this. It was clear that Ms. Barrow had  
17 determined that by November 15 that Dr. Kaye  
18 was entitled to the full \$20,000. You do  
19 see that, right?

20 MS. CANFIELD: Objection as to  
21 form. You can answer.

22 A I see that in e-mail, yeah.

23 Q What did you do, once Ms. Barrow  
24 made this determination what did you do to  
25 follow-up?

1 J. WANGEL

2 MS. CANFIELD: Objection as to  
3 form. You can answer.

4 A I don't recall.

5 Q Did you have any conversations  
6 with Dr. Yang about you know, Dr. Kaye  
7 receipt of the full amount versus the  
8 partial amount that she had received up  
9 until that point?

10 A I don't recall a specific  
11 conversation, but if Dr. Kaye's truly  
12 entitled to the full 1.0 20,000 I would have  
13 taken appropriate steps to get her paid  
14 correctly.

15 Q I'm going to show you what will be  
16 marked as Plaintiff's Exhibit 12 and for the  
17 purpose of the record Plaintiff's Exhibit 12  
18 bears the Bates series NYC\_1058 you see  
19 that, Mr. Wangel?

20 (Whereupon, Email (NYC\_1058) was  
21 marked as Plaintiff's Exhibit 12  
22 for identification as of this  
23 date.)

24 A I see the e-mail.

25 Q Right. And this is e-mail is to

1 J. WANGEL

2 Mr. Collins from Doctors' Council and it CCs  
3 you Mr. Wangel, right?

4 A Yep.

5 Q And at that point on December  
6 19th, 2018, Mr. Collins says, "Good morning.  
7 We've been informed by the payroll that Dr.  
8 Kaye should be receiving the remainder of  
9 her retention bonus payment of 6600 on the  
10 12/28 paycheck." You see that right?

11 A I do.

12 Q Now after seeing all these emails,  
13 Mr. Wangel, do you recall if Dr. Kaye  
14 received the 6600 dollar lump sum payment?

15 A I believe she did.

16 Q What makes you believe that?

17 A Just my recollection.

18 Q And had anybody else experienced  
19 issues obtaining their retention bonus that  
20 transitioned from Bellevue to CHS at the  
21 time?

22 A I don't recall, but I can tell you  
23 that I have regular conversations with  
24 Mr. Collins' Doctors' Council about dozens  
25 and dozens, and dozens of Doctors' Council

1 J. WANGEL

2 members and their FTE related

3 (unintelligible).

4 Q Now, at any point did it come up  
5 to your attention that Dr. Ford had  
6 mentioned or said to the effect that Dr.  
7 Kaye needed to be managed out?

8 A I'm sorry, can you say that one  
9 more time.

10 Q At any point did Dr. Ford convey  
11 to you that Dr. Kaye needed to be managed  
12 out?

13 MS. CANFIELD: Objection. You  
14 can answer.

15 A I don't recall a conversation no.

16 Q Do you recall -- what do recall  
17 Dr. Kaye's relationship was with Dr. Ford,  
18 how would you describe it?

19 A It's hard for me to comment I was  
20 not involved in the day-to-day I don't know  
21 what the interaction was I don't think Dr.  
22 Ford was Dr. Kaye's immediate supervisor.

23 Q Okay. But even if she wasn't did  
24 you recall any conversations she may have  
25 had about Dr. Kaye with you?

1 J. WANGEL

2 A Nothing specific comes to mind. I  
3 would need a little bit more -- I don't  
4 recall any specific conversation about Dr.  
5 Kaye.

6 Q Now, I'm going to ask you some  
7 more questions about some of the changes  
8 that Dr. Kaye actually experienced during  
9 her transition from CHS to H&H. So I'm  
10 going to show you what will be marked as  
11 Plaintiff's Exhibit 13.

12 (Whereupon, Email (NYC\_350-355)  
13 was marked as Plaintiff's  
14 Exhibit 13 for identification as  
15 of this date.)

16 Q Now, Plaintiff's Exhibit 13 bears  
17 the Bates series NYC\_350 to NYC\_ and they're  
18 in sequential order I guess this would be  
19 355 you see that right, Mr. Wangel?

20 A I see the 355, yes.

21 Q Yes. And this list -- actually,  
22 the e-mail is from Zachary Feigman, and I'm  
23 not sure if I'm pronouncing his name  
24 correctly, to Ms. Swenson and Guilaine  
25 Blaise; is that correct?

1 J. WANGEL

2 A Looks correct.

3 Q Who are these -- where do these  
4 individuals work, Mr. Wangel?

5 A Andrea Swenson was more like the  
6 administrator manager over FPECC.  
7 Ms. Blaise worked with me at labor relations  
8 administrative associate, and Zach, I don't  
9 remember.

10 Q Now the subject is, "Need some  
11 info" and I guess Zach, as you called him,  
12 is saying, "Hey, Andrea, We need who the  
13 managers are for each of the FPECC  
14 employees" right "Also, can you confirm who  
15 gets the timestamp button and who gets the  
16 direct entry." What's a timestamp button,  
17 do you know?

18 A I do and just before I address the  
19 timestamp button what's the date on this  
20 e-mail?

21 Q The date on this e-mail is  
22 July 2, 2018?

23 A I said that Ms. Blaise worked with  
24 labor she didn't work with -- she may -- she  
25 was in operations before -- she may have

1 J. WANGEL

2 been with operations she may have been labor  
3 it's hard to say at this point I don't  
4 recall when she made the switch.

5 So the time stamp button I'd have  
6 to give you a little bit of background about  
7 time keeping so you'd understand. So like I  
8 said the entire health and hospital paper  
9 time sheets up until, basically the  
10 pandemic. Correctional health shortly after  
11 it move to Bellvue Kronos for the  
12 electronic time keeping similar to city time  
13 throughout all agencies and because the  
14 individual units are located at the courts  
15 and there's not a large number of staff  
16 assigned to each of the courts it's not cost  
17 effective nor is it easy to install  
18 electronic device at the time the court  
19 building they're very expensive and there's  
20 not a lot of staff using them. So in lieu  
21 of using biometric device to scan you can  
22 click a button in the Kronos, which is the  
23 timekeeping system for correctional health.  
24 Basically, click a virtual button and it  
25 populates your time sheet with the current

1 J. WANGEL

2 time. So it's a way to capture time.

3 Q So then it lists various staff  
4 members and Dr. Kaye is the only director  
5 here, you notice this, right?

6 MS. CANFIELD: Objection to  
7 form. You can answer.

8 A Again, it's hard for me to  
9 remember who was the director who was  
10 (unintelligible.

11 Q At the time in July 2018 was any  
12 of the other individuals center directors,  
13 clinic director?

14 A I don't believe so.

15 Q Why is that, why is she the only  
16 clinic director on this list?

17 A I don't know.

18 Q And then there's another e-mail  
19 from the Ms. Swenson to Zach Fiegman and  
20 Guilaine Blaise and subject again, "Needs  
21 more info" and then you know, she,  
22 Dr. Mundy, they have, I guess, no timestamp  
23 and it lists Oliver Harper, Kanishk Solanki,  
24 and Jonathan Weiss, if they don't have a  
25 timestamp are they just filling out paper



1 J. WANGEL

2 time sheets?

3 A I'm a little uncertain where did  
4 they work then.

5 Q They worked under Dr. Mundy at the  
6 Manhattan court clinic all three of these  
7 individuals. These were psychologist who  
8 worked for Dr. Mundy.

9 A I'm trying to understand.

10 MS. CANFIELD: What's the  
11 question?

12 A Yeah, I'm a little confused.

13 Q First off, who would have made a  
14 decision whether or not a staff person would  
15 have had to use a timestamp or they would  
16 have to use another form of timekeeping.  
17 Who made that decision?

18 A It depends on your civil service  
19 classification, depends on the salary,  
20 depends on the direct manager depends to the  
21 employee. If you are unionized employee,  
22 it's driven by I believe city wide  
23 agreement.

24 Q What would the city wide agreement  
25 dictate in the instance?

1 J. WANGEL

2 A I'm trying to make sure I  
3 understand -- versus time stamp.

4 Q I'm trying to understand -- I'm  
5 trying to get to why Dr. Kaye would have  
6 been the only director who would have had --  
7 would have been on this list of individuals  
8 --

9 A I don't know. I mean it's hard  
10 for me to know why this group decided time  
11 stamp or no time stamp I wasn't consulted I  
12 don't really know the details of why. It's  
13 a little difficult trying to decipher this.

14 Q So you're not quite sure what the  
15 rational behind this list was and what made  
16 -- how the determination was made that some  
17 people had to have time stamps and others  
18 didn't. Is that what you're testifying to?

19 MS. CANFIELD: Objection as to  
20 form. You can answer.

21 A Yeah.

22 Q He said yeah.

23 A I'm saying it's hard for me to  
24 determine based on this e-mail chain. It's  
25 difficult for me to know what anybody's

1 J. WANGEL

2 rational was to determine whether it's time

3 --

4 Q The question is also then did you  
5 have any part in making this determination  
6 Mr. Wangel?

7 A I don't believe so.

8 Q Who would have been the most  
9 senior person in making this determination?

10 MS. CANFIELD: Objection as to  
11 form.

12 A It's sort of hard for me to answer  
13 you know I can give advise or give guidance  
14 on contracts that I do. You know I think  
15 time keeping was new. This sort of time  
16 keeping was new to correctional health. You  
17 know, I'm not sure everybody fully  
18 understood how the decision should be made.  
19 I'm not sure if it's a decision between --  
20 implementing. I don't recall being  
21 consulted. I was involved in the project  
22 overall, yes, I don't know -- I don't see  
23 myself in this chain so it's hard for me to  
24 reply to the time stamp.

25 Q I'm going to ask you something:

1 J. WANGEL

2 Time keeping was in what unit?

3 A What unit? I mean correctional  
4 health had its own time keeping unit.

5 Q Right.

6 A And some role function -- not a  
7 100 percent independent from the central  
8 office though.

9 Q Who was the most senior manager  
10 over time keeping?

11 A At this time is that what you're  
12 asking?

13 Q Yes.

14 A In 2018 I believe it was Ms. Laboy  
15 I want to say. There was -- folks came and  
16 went -- there was some turnover. There was  
17 Adelia Sferrazza was the head of payroll for  
18 a little while, changed hands a couple of  
19 times I can't actually recall in July  
20 of 2018?

21 Q In July of 2018 you were reporting  
22 to Ms. Laboy; was that right?

23 MS. CANFIELD: Objection as to  
24 form. You can answer.

25 A I don't believe so. This was only

1 J. WANGEL

2 11 months before I left CHS I would say, no.

3 Q So you were and Ms. Laboy were not  
4 in the same unit at this time?

5 A I don't believe so I don't recall  
6 the time exactly.

7 Q Let's see where you are in this  
8 the e-mail chain.

9 MS. CANFIELD: And Ms. Hagan I  
10 just went through the exhibits you  
11 sent me and this exhibit is not  
12 included in the batch.

13 MS. HAGAN: It is in the  
14 batch.

15 MS. CANFIELD: It's not in the  
16 batch. I just checked three times.

17 MS. HAGAN: I will send it  
18 again, but it's in that batch.

19 BY MS. HAGAN:

20 Q So Mr. Wangel, here you have an  
21 e-mail from if Ms. Blaise to you on July 6  
22 and Adelia Sferrazza you see that, right?

23 A I do.

24 Q And it says, "Good morning, here  
25 the is the schedule that was provided by

1 J. WANGEL

2 Ms. Swenson. Regards. Need some info."

3 Now, why would Ms. Blaise be sending you a  
4 schedule from Ms. Swenson?

5 A I don't know. (Unintelligible.)

6 Q Well, here she is assistant  
7 director of correctional health services  
8 policy and planning and labor relations. So  
9 Mrs. Blaise is working in labor relations;  
10 isn't that where you were working at that  
11 time?

12 A Yes, I would say.

13 Q She was working with you and for  
14 you at that time, right?

15 A She worked in labor relations,  
16 yeah.

17 Q Yes, for you and you were her  
18 supervisor; is that right?

19 A I believe so, yeah.

20 Q So, Ms. Blaise is in the e-mail  
21 thread from, I guess the initial e-mail, you  
22 see this, right? So, she's reporting to you  
23 Ms. Swenson is engaging Ms. Blaise about the  
24 schedule and the time stamps. Why is  
25 Ms. Swenson engaging Ms. Blaise, your staff

1 J. WANGEL

2 person, about how various CHS staff people  
3 are actually recording their time?

4 MS. CANFIELD: Objection to  
5 form. You can answer.

6 A It's hard for me to remember  
7 specifically about the entire context here,  
8 but it could have been about the 30 minute  
9 lunch piece it could have been a whole list  
10 of topics, again, this e-mail came from  
11 years ago without any context it's hard to  
12 tell.

13 Q Well, then here's further context  
14 here, then again, Ms. Sferrazza, Ms. Adelia  
15 Sferrazza, she e-mails you and Ms. Blaise  
16 and she tells you, "Please see the schedule  
17 below that will need to be added to Kronos  
18 and ATLS." Now, if they weren't time  
19 stamping did the employees use Kronos  
20 instead?

21 A So -- I'm not sure. That's the  
22 phrasing. So everybody used Kronos in some  
23 form or another, right, so now as part of  
24 the limitation of Kronos is you had to have  
25 a base schedule entered into Kronos, right.

1 J. WANGEL

2 That's sort of how the system works; so, you  
3 need to keep the schedule up-to-date and  
4 that was part of the project. ATLS, ATLS  
5 how the central office folks call it, uses  
6 the mainframe at central office; so there  
7 was at one time when scheduling became part  
8 of the time keeping process and schedules  
9 had to be uploaded or entered into Kronos.  
10 So that could be what this is about. It's  
11 hard for me to know exactly but that is part  
12 of the time keeping process.

13 Q Now, I guess the question I would  
14 have is that Ms. Swenson was responsible for  
15 administrative staff, why was she engaging  
16 in -- why is she engaging in the schedule of  
17 the clinical staff including Dr. Kaye?

18 MS. CANFIELD: Objection to  
19 form. Go ahead.

20 A So as you've shown me more e-mails  
21 I believe that Ms. Blaise before she goes by  
22 DG, she was helping the time keeping folks  
23 help to get the schedules entered because  
24 there was a tremendous amount of work  
25 involved in not getting schedules for all



1 J. WANGEL

2 staff entered into Kronos correctly. Again,  
3 this is just a snippet of a chain, but she  
4 was helping the time keeping folks at one  
5 point get all that stuff entered into  
6 Kronos.

7 MS. HAGAN: As I represented  
8 to the reporter.

9 (Whereupon, a recess was taken  
10 from 12:30 p.m. to 1:02 p.m.)

11 MS. HAGAN: We're going resume  
12 it's -- just for purposes of time  
13 keeping it's now 1:02 pm going on  
14 1:03 pm. And we have approximately  
15 three and a half hours left of the  
16 deposition so I want to resume and  
17 just let you know that. You should  
18 be available to 6:00, right?

19 A I'm sorry say that part again.

20 Q You'll be available until six pm  
21 today; is that right?

22 A 'Til six? I don't think we go  
23 until six.

24 Q This deposition sent to you and  
25 you have to --

1 J. WANGEL

2 A Yes, that's fine, I'll make myself  
3 available that's fine.

4 Q Thank you, Mr. Wangel. I  
5 appreciate that.

6 Going forward I want to kind of  
7 ask you some more questions about Dr. Kaye's  
8 -- the change in Dr. Kaye's --

9 MS. CANFIELD: I'm sorry I was  
10 on mute. I just want to say for the  
11 record before we get started that  
12 I'm missing Exhibits P1, 2, and 3,  
13 and 13 they're not in the documents  
14 that you sent over today earlier.

15 MS. HAGAN: I'm not quite sure  
16 if -- I believe that I sent them to  
17 you. If they're not I will send  
18 them to you again, I believe that I  
19 sent them to you in a, I guess a  
20 batch - a batch of documents because  
21 I wanted you to have them before  
22 today's deposition. And that's why  
23 I sent them to you at 5:00 o'clock  
24 this morning.

25 MS. CANFIELD: As per the

1 J. WANGEL

2 court's orders my motion to compel  
3 is granted. So, all sets of  
4 documents need to be sent over to me  
5 and I expect them in the subsequent  
6 depositions as well.

7 MS. HAGAN: I'm sorry, Ms.  
8 Canfield, I will look through that  
9 batch of documents to make sure that  
10 I haven't already sent them and if I  
11 haven't -- if I haven't I will send  
12 them again. But I'm assuming they  
13 were there, but I apologize if  
14 they're not. So, let's keep going.

15 BY MS. HAGAN:

16 Q So, Mr. Wangel, I want to continue  
17 with the changes in Dr. Kaye's working  
18 conditions upon her transfer from Bellevue  
19 to the CHS, so I was going to ask you some  
20 questions about the first and foremost the  
21 -- to continue on with the retention bonus  
22 so that would be -- I would be showing you  
23 another exhibit which will be marked as  
24 Plaintiff's Exhibit 14.

25 Plaintiff's Exhibit 14. The Bates

1 J. WANGEL

2 stamp series NYC\_385 and it's dated  
3 July 13, 2018. Do you see that, Mr. Wangel?

4 A I do.

5 (Whereupon, Email (NYC\_385) was  
6 marked as Plaintiff's Exhibit 14  
7 for identification as of this  
8 date.)

9 Q And Mr. Wangel, just getting into  
10 a discussion of Dr. Kaye's complaints about  
11 the 30 minute lunch that she was being made  
12 to forfeit for an hour lunch. Do you recall  
13 that?

14 MS. CANFIELD: Objection as to  
15 form. You can answer.

16 A I remember the conversation about  
17 the lunch period I wouldn't categorize it as  
18 forfeiture.

19 Q Is it your understanding -- do you  
20 remember Dr. Kaye's working hours prior to  
21 her discussions with you about her lunch  
22 hour?

23 MS. CANFIELD: Objection as to  
24 form. You can answer.

25 A I know that pursuant to the

1 J. WANGEL

2 Doctors' Council contract with health and  
3 hospitals it's 40 hour work week. So,  
4 specific schedules and hours I don't recall  
5 about specific hours.

6 Q Would you say that it was static  
7 40 hours that you were not told otherwise by  
8 anyone else?

9 A With what was 40 hours, Dr. Kaye's  
10 schedule?

11 Q As far as the work weeks for  
12 everyone who transitioned from Bellevue or  
13 transitioned from another entity to CHS,  
14 would you testify that everyone had to be on  
15 the 40 hour week or was it a sliding scale?

16 MS. CANFIELD: Objection as to  
17 form. You can answer.

18 A Again, the work hours are  
19 consistent with the contract. I wasn't very  
20 deeply involved with the actual transition  
21 folks from one facility to another or  
22 specific schedules versus specific personnel  
23 I'm not sure how to respond. Again, it's a  
24 40 hour work week.

25 Q I'm sure you weren't intimately

1 J. WANGEL

2 involved or I guess very involved with maybe  
3 types of issues generally. But it appeared  
4 that Dr. Kaye did reach you and did engage  
5 you on some level regarding this 30 minute  
6 doctor lunch, you did see this right?

7 A I did.

8 Q Would you need to read or review  
9 this e-mail in order to get an idea of how  
10 she engaged?

11 A I'm happy to reread it.

12 Q In order get the record clear.  
13 This is an e-mail from Dr. Kaye to you on  
14 July 13 2018 and the subject is, "30 minute  
15 lunch" and it's to you Mr. Wangel I can  
16 provide information regarding Bellevue  
17 physicians taking a 30 minute lunch.  
18 Approximately 13 years ago there was an  
19 agreement between doctor's counsel union and  
20 Bellevue hospital to increase the  
21 physician's salaries by increasing their  
22 workweek from 37 and a half hours per week  
23 to 40 hours per week. And at the same time  
24 decrease their unpaid lunch time from one  
25 hour to a half hour. I recall being at

1 J. WANGEL

2 union meetings when this was discussed and  
3 later when it was formerly implemented at  
4 Bellevue or MD or HHC pay line. I am  
5 uncertain if I still have documentation  
6 about this in storage, but if necessary I'm  
7 guessing that either doctor's counsel, HHC,  
8 Bellevue payroll, or the city has archived  
9 documents pertaining to this official  
10 change." And she says, "I don't know if  
11 there was -- if this was a city wide  
12 collective bargaining agreement or specific  
13 to Bellevue. I do know that it applied to  
14 all physicians working for Bellevue and that  
15 included the Bronx and Manhattan court  
16 clinics doctor's. I hope this information  
17 is helpful. Regards."

18 Now, does that jog your  
19 recollection any?

20 A With regard to the response to  
21 which question?

22 Q With just what happened between  
23 you and --

24 A Yeah, I can tell you there's more  
25 conversations about the 30 minute lunch.

1 J. WANGEL

2 Like I said, the Doctors' Council contract  
3 calls for a 40 hour workweek there were  
4 titles at other hospitals that require 37  
5 and a half workweek or 35 hour workweek and  
6 across the board system wide it's an hour  
7 lunch. You are on-site working for the  
8 hours specified in your contract plus an  
9 hour of unpaid lunch. Are there one off  
10 instances where a request can be made on a  
11 daily basis. You have some, you know,  
12 overriding concern and perhaps you don't  
13 have balance to cover (unintelligible) and  
14 amend the request, sure, but system wide  
15 it's generally an hour lunch. I remember  
16 speaking about this counsel about some  
17 specific Bellevue agreements I am not aware  
18 of one, if one was ever produced. I don't  
19 recall Dr. Kaye ever mentioning this issue  
20 when we had our conversation before this  
21 transition took place. I don't remember  
22 specific conversation about this particular  
23 topic. I don't believe there was one. I  
24 know Dr. Kaye had an opportunity to become a  
25 annual employee, which she chose not to, in



1 J. WANGEL

2 which case the annual agreement calls for a  
3 straight 40 hours where lunch is built in.  
4 So, 40 hours work and lunch is built in and  
5 that would have alleviate her concern. I  
6 believe she was also offered the managerial  
7 employee that's group 11. If you're a  
8 manager you have flextime, which is more  
9 flexibility as to the schedule. I believe  
10 that option was not exercised. Ultimately,  
11 as a unionized doctor under the contract a  
12 40 hour workweek and everybody pays an hour  
13 lunch. That's how --

14 Q Question, with Dr. Kaye's  
15 background -- first off, what PAGNY  
16 (phonetic) position would she have been  
17 offered at this time, do you know?

18 A There were Doctor's Council  
19 members who worked for PAGNY also  
20 represented by Doctor's Council just a  
21 different part of it.

22 Q Did you offer Dr. Kaye a PAGNY  
23 position?

24 MS. CANFIELD: Objection. You  
25 can answer.

1 J. WANGEL

2 A Wouldn't be my place to do so, no.

3 Q How did you know that Dr. Kaye was  
4 offered a PAGNY position?

5 A I just know that there are other  
6 staff holding different -- I mean everybody  
7 in a similar role they have different civil  
8 service qualifications.

9 Q The question is how: Do you know  
10 that Dr. Kaye was offered a PAGNY position,  
11 what firsthand knowledge do you have to that  
12 affect?

13 A I don't know I don't recall.

14 Q Do you know who offered her a  
15 PAGNY position?

16 A I don't. Again, I wasn't involved  
17 in, you know, the discussion to bring this  
18 program over to correctional health.

19 Q Just for purposes of closure do  
20 you know when Dr. Kaye was offered a ^  
21 position?

22 A I don't.

23 Q So were any other directors at any  
24 of the other centers offered a -- in the  
25 PAGNY line?

1 J. WANGEL

2 MS. CANFIELD: Objection as to  
3 form.

4 A I believe there was one, there  
5 were four directors at the time. I think  
6 one, possibly two. I mean all the remaining  
7 three I believe there was one possible had  
8 how to the break down.

9 Q Wasn't Dr. Winkler a PAGNY  
10 employee?

11 A Could have been again I don't  
12 recall specifically who is in which line.

13 MS. CANFIELD: Is it possible  
14 there's that ringing again and I've  
15 seen the witness squint.

16 A It's very loud.

17 Q I've tried to silence my phone  
18 I've tried to do everything besides turn it  
19 off I don't have the luxury of turning off  
20 my phone.

21 (A discussion was held off the record.)

22 BY MS. HAGAN:

23 Q Going back to my line of  
24 questioning. Mr. Wangel, you said that you  
25 remember some things that transpired along

1 J. WANGEL

2 with -- as it pertains to Dr. Kaye's -- her  
3 suit or I guess her issues with the change  
4 from a 30 minute lunch to an hour lunch.  
5 Now, Dr. Kaye prior to this were you aware  
6 that the Dr. Kaye worked from 9:00 a.m. to  
7 5:30 p.m.?

8 A Prior to what?

9 Q 5:30 p.m. prior to I guess the  
10 change that was put in place those were her  
11 work hours were you aware of that?

12 MS. CANFIELD: Objection to  
13 form. You can answer.

14 A I don't believe so.

15 Q So, she never told you that she  
16 needed to work a certain set of hours to  
17 address the needs of her children?

18 MS. CANFIELD: Objection to  
19 form. You can answer.

20 A You were speaking pre-transition,  
21 right, so like I said before the initial  
22 conversation I had with Dr. Kaye, you know,  
23 in talking about compensation and other  
24 things, the issue of the 30 minute lunch did  
25 not come up it wasn't addressed at that time

1 J. WANGEL

2 and this chain looks like it's a couple of  
3 weeks after the transition took place.

4 Q Right. But I'm going back to  
5 whether Dr. Kaye disclosed why she had to  
6 the work a 9:00 a.m. to 5:30 p.m. schedule?

7 A I believe she did. I believe if I  
8 recall correctly it was related to child  
9 care and at the time that we had the  
10 discussion I said it was not having to  
11 provide the detail it was care for a child  
12 that intermittent would be appropriate, she  
13 could reach out to the department if that's  
14 appropriate and, you know. But otherwise  
15 generally speaking if she's asking for a  
16 permanent reduction in the number of minutes  
17 or hours she needs to be in the workplace,  
18 the contract calls for the 40 hours, there's  
19 an hour lunch, anything else would be, you  
20 know, violations.

21 I can't unilaterally change  
22 schedules for the staff. It's not my shop.  
23 It's not my department. I don't know what  
24 the need is.

25 Q Dr. Kaye worked this schedule for

1 J. WANGEL

2 years, Dr. Kaye -- would you agree with me,  
3 Dr. Kaye worked at the -- as the director of  
4 the court clinic or at the court clinic in  
5 the one capacity from 2000 up until the time  
6 she left, which would have been 2020, right,  
7 and you start working for the CHS in 2015;  
8 is that right, Mr. Wangel?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A Correct.

12 Q It's correct, right?

13 A I started working in 2015, that's  
14 correct.

15 Q Who made the decision that  
16 everyone -- that all of sudden this  
17 collective bargaining agreement had to be  
18 enforced in a uniform way?

19 MS. CANFIELD: Objection as to  
20 form. You can answer.

21 A I don't believe there was anybody  
22 who made the uniform decision I think that  
23 that's how the work schedule -- that's  
24 typical throughout the entire health and  
25 hospital system to take an hour lunch,

1 J. WANGEL

2 that's how it happens throughout the rest of  
3 the correctional health and on the PAGNY  
4 lines for the folks on Rikers there are  
5 physicians that's their schedule 40 hours  
6 with an hour lunch for the nine hours a day.  
7 I don't think anybody made a unilateral  
8 decision you want to bring conformity with  
9 the normal.

10 Q Mr. Wangel, this is July 13 this  
11 is about 12 days after Dr. Kaye was  
12 officially brought over to CHS, right. For  
13 12 days why wasn't she put on the one hour  
14 lunch break who made the determination  
15 within 12 days of her starting that she had  
16 to be put on a hour lunch break rather than  
17 the 30 minutes that she had?

18 MS. CANFIELD: Objection as to  
19 form. You can answer.

20 A I can't speak to who made that  
21 decision I don't recall I don't have that  
22 knowledge. You're talking about a  
23 transition of a number of programs part of a  
24 large operation, you know, you're only  
25 talking two weeks in, right. This is day 10

1 J. WANGEL

2 it's like -- or less. So I again, I can't  
3 speak to exactly how the issue came up.

4 Q I want to give you some  
5 perspective. How many people work at H&H?

6 A H&H direct pay staff you're  
7 asking?

8 Q Yes, how many people work at H&H?

9 A More than 40,000.

10 Q How many of people worked at CHS  
11 about that time, about?

12 A Well, you're counting apples to  
13 apples. It's about 70,000 including the  
14 affiliates that CHS has a heavy number of  
15 staff also pushing 3,000, I'd say.

16 Q So out of the 3,000 Dr. Kaye's  
17 work schedule comes across someone's work  
18 radar and at that time within 12 days of her  
19 being transitioned into this line it is  
20 brought someone's attention that she's  
21 working an hour verses 30 minutes of 3,000  
22 people and she's engaging you who has, I  
23 guess, purview over 3,000 people at the  
24 time. How did that happen?

25 MS. CANFIELD: Objection as to



1 J. WANGEL

2 form. You can answer if you're  
3 able.

4 A You're saying there's 3,000 people  
5 with leadership of FPECC. They don't  
6 supervise 3,000 people it's a much smaller  
7 group of staff that they manage. My  
8 position as the head of legal at the time of  
9 correctional health I mean, this question as  
10 to the contract interpretation or what are  
11 the appropriate hours to work those kinds of  
12 questions are appropriate to labor probably.

13 Q Did anyone from the FPECC  
14 management come to you about Dr. Kaye's work  
15 hours?

16 A I definitely had conversations  
17 with the FPECC staff about the scheduling to  
18 recall a conversation with one individual I  
19 don't remember specifically again this is  
20 three years ago.

21 Q Any of the other directors have  
22 their hours changed?

23 A Not that I'm aware of, I mean it's  
24 possible. I believe that the eight hours  
25 worked one hour lunch was consistent with

1 J. WANGEL

2 the way the other directors were working  
3 pursuant to their own contract are only  
4 required to be on site for the eight hours.

5 Q So you're not sure if there were  
6 any other directors who were subjected to  
7 this change or a change in their hours; am I  
8 right?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A I don't recall.

12 Q Would it be your testimony or  
13 could you say for certain that all of the  
14 directors worked eight hour days, 40 hour  
15 weeks?

16 MS. CANFIELD: Objection as to  
17 form. You can answer.

18 A I could say that they should be  
19 working consistent with their collective  
20 bargaining agreements and management roles.  
21 So, managers work a 35 hour week with an  
22 hour lunch and the doctors work an eight  
23 hour day with a lunch built in and other  
24 (unintelligible) hour day.

25 Q Are you that depending on the

1 J. WANGEL

2 entity they were employed by that was the  
3 distinguishing factor and not gender?

4 MS. CANFIELD: Objection as to  
5 form. You can answer.

6 A Tells you what the collective  
7 bargaining agreement calls for each --

8 Q And I'm asking you about this --  
9 I'm asking you what the reason was for Dr.  
10 Kaye's work week to be changed. She  
11 allege's that it was gender discrimination  
12 and retaliation and you're are citing a  
13 collective bargaining agreement and/or I  
14 guess entity managerial entity?

15 MS. CANFIELD: Objection to  
16 form. You can answer.

17 A My response to that those are the  
18 hours that the collective bargaining  
19 agreement calls for I am not aware of any  
20 fact or circumstance where Dr. Kaye's hours  
21 were changed based on gender discrimination.

22 Q Did Dr. Jain ever give you a  
23 directive to change Dr. Kaye's hours?

24 MS. CANFIELD: Objection as to  
25 form. You can answer.

1 J. WANGEL

2 A No. I'm not responsible for Dr.  
3 Kaye's hours.

4 Q Did Dr. Jain discuss with you or  
5 insist upon Dr. Kaye's hours being changed?

6 MS. CANFIELD: Objection as to  
7 form. You can answer.

8 A I had discussions with Dr. Jain  
9 about the requirements of the contract, but  
10 any changes in schedule would not run  
11 through me. I give advice to counsel about  
12 how the bargaining agreements are  
13 constructed and what's required.  
14 (Unintelligible). Operational decision is  
15 made, that's not a labor relations decision.  
16 That happened with the leadership  
17 department.

18 Q I'm going to ask you something,  
19 Mr. Wangel, you're the senior, now, you're  
20 the assistant vice president of labor  
21 relations, right, but at the time you were  
22 the senior director of labor relation,  
23 right?

24 A At the time in July 2018 you're  
25 asking?

1 J. WANGEL

2 Q Yes.

3 A I was the senior director of labor  
4 relations for correctional health services.

5 Q Now, were you acting in the legal  
6 capacity or were you acting -- first off,  
7 were you acting in the legal capacity, let's  
8 just ask that question first?

9 MS. CANFIELD: Objection.

10 A I was not of counsel.

11 Q You were not counsel?

12 A My corporate title was not counsel  
13 at that time.

14 Q What was your corporate title  
15 again?

16 A Senior director.

17 Q You were not in like an agency  
18 attorney, or executive attorney title or  
19 anything akin to that, right?

20 A I was not an attorney title while  
21 at correctional health.

22 Q Okay. So I'm going to further up  
23 in the e-mail I'm going to finish with this  
24 one that was the Exhibit 14.

25 I'm going to show you what will be

1 J. WANGEL

2 marked as Exhibit 15.

3 (Whereupon, Email (NYC\_395-400)

4 was marked as Plaintiff's

5 Exhibit 15 for identification as

6 of this date.)

7 Q I'm going to show you what's been

8 marked as Plaintiff's Exhibit 15.

9 A That will work.

10 Q I'm going to show you what's being

11 marked as Plaintiff's Exhibit 15,

12 Plaintiff's Exhibit 15, bears the Bates

13 series NYC\_385. And --

14 MS. CANFIELD: I'm sorry 385.

15 MS. HAGAN: 385.

16 MS. CANFIELD: That was No.

17 14.

18 MS. HAGAN: Oh, it is. I'll

19 change it. This will be number 15

20 then. Will be marked as an e-mail

21 bearing the Bates series 395, 396,

22 397, 398, 399, and 400. 395 to 400,

23 you see that, right?

24 MS. CANFIELD: No, it's not up

25 yet.

1 J. WANGEL

2 MS. HAGAN: So I'm going to  
3 show you what's going to be marked  
4 as Plaintiff's Exhibit 15.

5 Q I'm going to show you that and  
6 then I'm going to go back to what's going to  
7 be Plaintiff's Exhibit 14. Plaintiff's  
8 Exhibit 14 was the e-mail where Dr. Kaye  
9 explains she can reference an agreement that  
10 was made between Doctors' Council union and  
11 Bellevue 13 years ago, you saw that, we were  
12 discussing that earlier, right?

13 A Right.

14 Q So, anyone who was working a 37  
15 hour workweek would go to 40 hours a week  
16 and their lunch hour would decrease from one  
17 hour to half hour. You saw that, right?

18 A I see the e-mail.

19 Q This is the e-mail she sent you on  
20 July 13, 2018 that was Exhibit 14. Exhibit  
21 15 you have an e-mail thread and I'm going  
22 to start at the beginning of the e-mail  
23 thread for purposes of clarity. In the  
24 beginning of the e-mail thread there's a  
25 Bates stamp NYC\_396 and it comes from Dr.

1 J. WANGEL

2 Kaye, the same e-mail we were discussing  
3 earlier; you see this right?

4 A Yes.

5 Q And then we scroll up and it's  
6 from you -- there's another e-mail  
7 subsequent thereto from you to Mr. Campese;  
8 you see that right?

9 A I do.

10 Q And it's -- the subject is 30  
11 minute lunch. Now, you say, "Below is an  
12 e-mail from a former Bellevue staffer  
13 Doctor's Council now with CHS FPECC. Are  
14 you familiar with the agreement referenced  
15 trying to determine if these staff should be  
16 on a standard one hour lunch." Now, at this  
17 time you're not sure yourself; am I right?

18 A Not sure about what?

19 Q Whether or not the staff should be  
20 on a standard one hour lunch?

21 A No. That's the general rule.

22 Q Well, I'm just saying you're not  
23 the sure you're trying to determine. That's  
24 what you are saying. These are your words  
25 trying to the determine if the staff should



1 J. WANGEL

2 be on a standard one hour lunch. That  
3 doesn't sound like someone who has made a  
4 determination as of yet; am I right?

5 MS. CANFIELD: Objection. You  
6 can answer.

7 A I'm responding to Dr. Kaye's  
8 e-mail saying it should be a 30 minute  
9 lunch. So my e-mail to Mr. Campese and Ms.  
10 McCarthy is trying to determine if she  
11 should be on a standard one hour lunch  
12 because that's the standard.

13 Q You've been at CHS all of, let's  
14 see three years now and Dr. Kaye's been  
15 working there for 18 at the time; am I  
16 right?

17 MS. CANFIELD: Objection.

18 A She was not working at CHS, sorry.

19 Q Well, she was working at the Bronx  
20 court clinics for 18 years; am I right?

21 A I'll take your word for it.

22 Q On July 23, you get an e-mail from  
23 Mr. Campese going to you, Michelle McCarthy  
24 and Rosalind Barrow. First off, who's  
25 Michelle McCarthy?

1 J. WANGEL

2 A She was formally Mr. Campese's  
3 deputy.

4 Q And Rosalind Barrow who is she?

5 A She also works at central office  
6 labor relations deputy director.

7 Q Now, you say, Rosalind, do you  
8 have any info on this in your file, Matt,  
9 right. Who's Ms. Barrow where does he work?

10 A She works at the central office  
11 labor relations.

12 Q Then Ms. Barrow e-mails back, "I  
13 have attached the MOU, language of the  
14 contract, as well as the Scott Van Orden  
15 Payroll memo on the additional hours for the  
16 Doctors." You see that, right?

17 A I do.

18 Q And she said deputy director labor  
19 relations in New York City health and  
20 hospital, so that would have meant that she  
21 is from the office of labor relations. Now,  
22 is this from your office, Mr. Wangel?

23 A Again, it's been so long central  
24 labor relations oversees labor for the  
25 entire system although, correctional health

1 J. WANGEL

2 does operate somewhat independently.

3 Q Okay. She sends these documents  
4 that she's referencing, right? And on the  
5 first one it's dated November 23, 2004, you  
6 see this right?

7 A Yes.

8 Q Now, in this document effective  
9 February 1st 2005, 130.5 hours additional  
10 per year except for PCP hourly sectional.  
11 HHC half hour per day if any change will  
12 inform Doctors Council." Now, she's working  
13 for HHC at this point, right, Dr. Kaye,  
14 right?

15 MS. CANFIELD: Objection as to  
16 form. You can answer.

17 A She's always been working in the  
18 health and hospitals I think. Correctional  
19 health and Bellevue are health and  
20 hospitals, so.

21 Q You receive this document and it's  
22 saying specifically a half hour a day. Did  
23 you read this document, Mr. Wangel?

24 A I'm sure I did at the time.

25 Q How are you still determining that

1 J. WANGEL

2 she has to take a hour lunch period if it  
3 clearly says a half hour?

4 A Can you direct me to where it  
5 shows a half hour lunch.

6 Q It says a half hour here let's go  
7 further. We can go further.

8 MS. CANFIELD: Can you show  
9 him exactly where you're pointing?  
10 Do you see where it is, Mr. Wangel?

11 MS. HAGAN: Sure.

12 A I do. I believe so effective  
13 2-1-05, 130. -- hours additional per year  
14 except primary care hours, etc. And HHC an  
15 extra half hour per day. Going from 37 and  
16 a half to 40 hours a week. That's  
17 referencing extra time at work.

18 Q Do you see anything about the 37  
19 and a half hours or 40 per week here?

20 A Sure.

21 MS. CANFIELD: What you  
22 represented I think is  
23 (unintelligible.)

24 A Right.

25 Q Let's keep going through the rest

1 J. WANGEL

2 of the document so that we can work together  
3 on this, okay.

4 So, I want to draw your attention  
5 to -- let's just make sure I have this  
6 right. I'm going to draw your attention  
7 here now to this memo this Scott Van Orden.

8 MS. CANFIELD: And I just want  
9 to add for the record I don't have  
10 this document either in the files  
11 that you sent over.

12 MS. HAGAN: I strongly believe  
13 that I sent them to you, but if I  
14 have not what I will do is I will  
15 send them to you again in the bulk  
16 that I sent them to you in the first  
17 place and I will actually make sure  
18 that I direct you to the actual page  
19 numbers that each of the exhibits  
20 are on. I hope that you are not  
21 misrepresenting the record because I  
22 am certain that I have sent them all  
23 to you, but if I haven't I apologize  
24 I will make sure that I have no --  
25 not overlooking anything. But I am

1 J. WANGEL

2 certain that they are in that batch  
3 of documents.

4 BY MS. HAGAN:

5 Q Now, there is a memo from Mr. Van  
6 Orden to the payroll managers and it's dated  
7 January 8, 2005, you see that, Mr. Wangel,  
8 right?

9 A I do.

10 Q It says the full-time annualized  
11 employees the normal work week for an  
12 annualized Pay Code "A" physicians and  
13 dentist" which Dr. Kaye is she's a  
14 physician; am I right?

15 A From my understanding.

16 Q So, employees now working 37 and a  
17 half hours will be required to work 40  
18 hours. Employees now working 35 hours will  
19 required to work 37 and a half hours per  
20 week. Primary care physicians work week  
21 requirements are not changing and will  
22 continue to be required to work a minimum of  
23 37 and a half hours, right. So, at the time  
24 of this arrangement Dr. Kaye was working  
25 9:00 a.m. to 5:30 p.m.; would you agree or

1 J. WANGEL

2 disagree?

3 MS. CANFIELD: Objection to  
4 form. You can answer.

5 A Could you repeat the question at  
6 the time of this agreement in 2005.

7 Q At the time that you met Dr. Kaye  
8 she represented to you that she had been  
9 working 9:00 a.m. 530 p.m.; is that right?

10 A When I met Dr. Kaye prior to this  
11 transition taking place she was still an  
12 employee at Bellevue hospital, I believe Dr.  
13 Kaye was trying to make a decision about how  
14 she wanted the dispute in terms of her  
15 employer to be I don't think we discussed  
16 her actual hours of work at that time there  
17 was no conversation about 37 and a half to  
18 40 or lunch period or anything like that.  
19 It was driven by compensation, time, and  
20 benefits.

21 Q Would it be fair to say that a  
22 9:00 to 5:00 workday would be how many  
23 hours, Mr. Wangel?

24 A You're asking me would that  
25 include lunch or not?

1 J. WANGEL

2 Q Let's include lunch 9:00 to 5:00  
3 with lunch is what?

4 A Physically present for eight hours  
5 and an hour for lunch that's a 35 hour  
6 workweek.

7 Q I'm asking you nine to five is how  
8 many hours without a lunch break?

9 A Eight hours.

10 Q Eight hours a day and that would  
11 have meant that Dr. Kaye was originally  
12 working 37 and a half hours, right?

13 MS. CANFIELD: Objection.

14 A I don't understand how you get to  
15 37 and a half.

16 Q Well, according to this:  
17 "Employees now working 37 and a half hours  
18 will be required to work 40 hour per week."  
19 Right. And if Dr. Kaye's hours were -- if  
20 she was working eight and a half hours a  
21 day, right, and she was taking a half hour  
22 lunch she was working eight hours day?

23 A I can't speak to Dr. Kaye's hours  
24 of work in 2005.

25 Q That's what she represented to you



1 J. WANGEL

2 when she was having her discussions about  
3 her workday and her workweek she's  
4 representing to you that she worked an eight  
5 and a half hour day with a half hour lunch  
6 and that's how she got to be -- how she  
7 would work the eight hour day; is that  
8 right?

9 MS. CANFIELD: Objection.

10 A My testimony was that when I met  
11 with Dr. Kaye prior to this transition we  
12 did not discuss the hours worked or anything  
13 related to the lunch break.

14 Q Now, according to this document,  
15 right, it's not necessarily specifying how  
16 long their lunch hour has to be. Do you see  
17 anything to that effect in here?

18 A As you scroll through now like I  
19 said before, the standard lunch break, the  
20 one hour regardless of 35, 37 and a half --

21 Q When you received this document  
22 did you actually adhere to the document did  
23 you take it into consideration?

24 A I'm unclear consideration of what.

25 Q Well, apparently Dr. Kaye's

1 J. WANGEL

2 position is supported by this document and  
3 it doesn't appear that it was even  
4 acknowledged. Here a CHS employee Rosalind  
5 Barrow shared with you the very document  
6 that Dr. Kaye referenced in her prior e-mail  
7 saying that this agreement had been reached  
8 and she had been adhering to it up until  
9 this point and when she referenced the  
10 document after everyone had asked about it  
11 there had been no efforts to adhere to it.  
12 Why is that?

13 MS. CANFIELD: Objection as to  
14 form. You can answer if you're  
15 able.

16 A So, Ms. Hagan, you said yourself  
17 that this document does not speak to the  
18 lunch break. So, I'm not sure adherence to  
19 what, there's no language about lunch break.  
20 Adherence to what part of this document.  
21 The 40 hour week is what she was required to  
22 work.

23 Q She was working a 40 hour workweek  
24 and if she's saying I was working 9:00 to  
25 5:30, right, why must -- if she's making the

1 J. WANGEL

2 40 hours that way, why did her hours have to  
3 the change to a nine hour workweek in order  
4 to accommodate CHS's standard. You were  
5 requiring -- nine hours a day?

6 MS. CANFIELD: Objection as to  
7 form. You can answer.

8 A Again, I am not required Dr. Kaye  
9 to work in specific schedule. I didn't want  
10 then, not my decision to make.

11 Q Who required --

12 A Let me answer your question. So  
13 again, eight hours worked and an hour of  
14 lunch is what standard as my e-mail said  
15 throughout the entire system, right. If  
16 there is an operational decision that needs  
17 to be made whether or not a director or  
18 somebody in charge of the unit or somebody  
19 who is supervising needs to be present at  
20 their work location or a supervised staff  
21 who otherwise would be available for work.  
22 That's an operational decision made by the  
23 program.

24 If you need to be present for nine  
25 hours a day to make that happen, that's a

1 J. WANGEL

2 decision that was made by the CHS, FPECC.

3 Q I'm going to direct your attention  
4 back to the portion of the document that we  
5 were discussing earlier. Prior to this  
6 document coming into effect, Dr. Kaye was on  
7 an hour lunch break, right? And according  
8 to this document on February 1, 2005, then a  
9 half hour a day, was added per day, which  
10 means then her lunch break went from an hour  
11 to a half hour. However, way she came up  
12 with getting this additional half hour, she  
13 choose or whoever chose to have the half  
14 hour lunch break rather than the hour lunch  
15 break, why was this not added, especially  
16 she had been working in this capacity for  
17 over 18 years at that time and she had this  
18 document that's been basically issued by her  
19 union, why was that not acceptable?

20 MS. CANFIELD: Objection.

21 Compound question. You can answer?

22 A So again, this document doesn't  
23 reference a lunch break. We're not talking  
24 about why break was a half hour a day --  
25 that's three minute of work time going from

1 J. WANGEL

2 37 and a half to 40, right? I can't speak  
3 for Bellevue -- of FPECC. Someone in a  
4 position of leadership at Health and  
5 Hospitals made a decision to move the entire  
6 FPECC program to Correctional Health.

7 Q Who was that?

8 A I have no idea. That's not my  
9 decision to make. I wasn't involved in  
10 that. I don't know. A decision was made to  
11 move the entire FPECC program over to  
12 Correctional Health. How Correctional  
13 Health chooses to manage that program, I  
14 mean, it's a difference, it's different  
15 leadership managing FPECC, because it  
16 changed hands.

17 So if operationally management  
18 feels that the management of the staff at  
19 each of the FPECC sites needs to be present  
20 for the full nine hours, eight hours work a  
21 day or whatever, that hour break, that's  
22 management's discretion.

23 Q And were all the directors at all  
24 of the court clinics, were each of them  
25 required to work nine-hour days?

1 J. WANGEL

2 A I don't know. But again, there  
3 are other collective bargaining agreements  
4 at play here. Right? So we have to conform  
5 with the collective bargaining with Doctors'  
6 Council and Health and hospital.

7 Q Who made the decision that Dr.  
8 Kaye could not reduce her lunch hour by half  
9 an hour verses having to work an extra half  
10 hour a day; who made that decision?

11 A Ultimately I actually don't know  
12 or I don't recall.

13 Q And who told you that Dr. Kaye's  
14 hours had to change?

15 A I'm not sure somebody did tell me  
16 that Dr. Kaye's hours had to change.

17 Q So how did it come to be that Dr.  
18 Kaye's hours changed then?

19 A My general recollection is that in  
20 uniform across the board, Health and  
21 Hospitals doctors and other titles that are  
22 H&H employees, everyone takes an hour break.  
23 And to make an exception here, would mean  
24 others would be entitled to the same; and  
25 operationally that's not feasible.

1 J. WANGEL

2 Q Operationally for what exactly?

3 Operationally in terms of what?

4 A If you had every staff member who  
5 shouldn't be taking an hour lunch break as  
6 typically and consistent across the system.  
7 Leaving a half hour early, there would not  
8 be--

9 Q Let's put this in context. Dr.  
10 Kaye worked for the court clinics, right?  
11 How is her leaving at 5:00 a problem for the  
12 courts?

13 A I don't know. That's not my  
14 decision to make. I'm not a supervisor. I  
15 don't work for FPECC. That's not a labor  
16 and relation's decision.

17 Q Is a operational decision from Dr.  
18 Kaye's supervisor?

19 A I don't know. I can't speak for  
20 them. I don't manage FPECC. It's not my  
21 decision to determine what's necessary for  
22 the FPECC program.

23 Q Who manages FPECC?

24 A Today I'm not sure. There was  
25 Dr. Jain, there was Dr. Ford, Andrea Swenson

1 J. WANGEL

2 was an administrating manager. Those were  
3 the folks.

4 Q So you were not necessarily  
5 responsible for changing Dr. Kaye's hours  
6 but you participated in, I guess, reading  
7 these various documents and perhaps giving  
8 your opinion as to what you believe they  
9 meant; am I right?

10 A I don't give you an opinion. I'm  
11 telling you exactly what I told them. This  
12 is the collective bargaining call this is  
13 the practice throughout the system.

14 Q Where is the collective bargaining  
15 agreement that said Dr. Kaye had to take an  
16 hour lunch; where is that?

17 A It's actually not there. That's  
18 the best practice for the entire system for  
19 as long as anybody can remember.

20 Q So there's no document that says  
21 Dr. Kaye has to take an hour lunch?

22 MS. CANFIELD: Objection to  
23 form. You can answer.

24 A Not that I'm not aware of, no.

25 Q Okay. I'll move on.



1 J. WANGEL

2 A And there's also no document that  
3 says the other 42,000 people who worked with  
4 the system have to take a lunch, but they  
5 do.

6 Q Now, at some point how would  
7 describe Dr. Kaye's relationship with her  
8 supervisor Dr. Jain?

9 A I wouldn't hazard to guess.

10 Q Did Dr. Jain ever come to you to  
11 complain about Dr. Kaye at any time?

12 A To complain, no.

13 Q Did Dr. Jain ever accuse Dr. Kaye  
14 of anything to your knowledge?

15 A I'm not aware of it.

16 Q So you don't recall Dr. Jain ever  
17 having any allegations against Dr. Kaye  
18 during the course of your employment?

19 MS. CANFIELD: Objection as to  
20 form. You can answer.

21 A Dr. Jain having accusations  
22 against Dr. Kaye, you said?

23 Q Yes.

24 A Not that I recall.

25 Q So I'm going to show you what is

1 J. WANGEL

2 to be marked Plaintiff's Exhibit 16. For  
3 purposes of the record Plaintiff's Exhibit  
4 16 bears the Bates stamp series NYC\_1060 to  
5 NYC\_1061.

6 (Whereupon, Email  
7 (NYC\_1060-1061) was marked as  
8 Plaintiff's Exhibit 16 for  
9 identification as of this date.)

10 Q I'm going to start at the  
11 beginning of the thread, as I had before. I  
12 think you should be seeing now NYC\_1060 and  
13 NYC\_1061. Do you see that? Do you see sent  
14 from my iPhone right now at the bottom of  
15 the page?

16 MS. CANFIELD: Yes.

17 Q So it's an e-mail from Dr. Jain  
18 to, I guess -- first, it's an e-mail from  
19 Dr. Jain. It says, may be better in person  
20 or over the phone. I'm free -- let me start  
21 from the beginning. I'm sorry.

22 So it starts from Dr. Jain at the  
23 bottom of, in the middle of NYC\_1061. It  
24 says: Hi, Elizabeth I'm letting you know I  
25 am in the Bronx court clinic. I am told

1 J. WANGEL

2 that Dr. Kaye has handwritten notes out of  
3 the charts and has them in her possession.  
4 They are no longer in the charts and we  
5 cannot find them. We can discuss more  
6 tomorrow. Beesh.

7 Do you recall this on December 20,  
8 2018? Do you recall any of this, Mr.  
9 Wangel?

10 A I don't believe so.

11 Q So then Dr. Ford says, "thanks,  
12 Beesh. Who else is aware of this?" Right?  
13 Then Dr. Jain says, "maybe better in person  
14 or over the phone. I'm free now, but okay  
15 also for when we meet tomorrow." Then Dr.  
16 Jain responds: We looked again and cannot  
17 locate them according to Lucrecia some of  
18 the charts were pulled on November 18 and  
19 there were subsequent charts as well."

20 Now, at any point did it come to  
21 your attention that Dr. Kaye accused Dr.  
22 Jain of destroying his handwritten notes?

23 A I'm sorry, destroy the notes?

24 Q Did Dr. Jain himself destroy his  
25 notes?

1 J. WANGEL

2 A Not that I recall.

3 Q So you never heard any discussion  
4 from either Dr. Jain or Dr. Kaye about the  
5 destruction of handwritten notes in the  
6 client's file?

7 MS. CANFIELD: Objection. You  
8 can answer.

9 A I'm trying to remember. Again,  
10 it's a while back. As you scroll I'm trying  
11 to remember the details, if I spoke with JW.  
12 I'm trying to remember. We spoke to, papers  
13 were filed. I don't recall.

14 Q She's asking for specifics and she  
15 felt like that would be more helpful. Then  
16 Dr. Jain describes it. There were at least  
17 ten files involved and then ten files  
18 involved. Is that enough for you or should  
19 we scroll up even more?

20 MS. CANFIELD: Objection. For  
21 what?

22 Q Well, this is actually an exchange  
23 between Dr. Ford and Mr. Wangel. So she  
24 sent him this thread to bring him up to  
25 speed, so I guess she could obtain advice.

1 J. WANGEL

2 Would that be accurate, Mr. Wangel?

3 A All I know is she sent it to me.  
4 The purpose of why she sent it, I can't  
5 speak to it. Trying to recall the details  
6 here.

7 MS. CANFIELD: This e-mail  
8 doesn't say Dr. Kaye accused Dr.  
9 Jain of --

10 MS. HAGAN: I'm going to stop  
11 you because you're testifying on --

12 MS. CANFIELD: I'm just saying  
13 that she's saying that Dr. Kaye  
14 maybe took the notes.

15 MS. HAGAN: I asked him that,  
16 and again I would ask --

17 A That's why I'm asking for  
18 clarification. I already testified that I'm  
19 not aware of the destruction of files. I  
20 was asking to scroll. I get the fact, the  
21 e-mail, but I don't recall anything about  
22 these files.

23 Q Now, at any point now Dr. Kaye  
24 also alleges that she was subject to she  
25 felt that -- she's concerned about fishing

1 J. WANGEL

2 emails. Do you recall?

3 A Dr. Kaye was concerned about  
4 fishing emails?

5 Q Yes.

6 A I think I need a little bit more  
7 context. Again, this is a while back so.

8 Q At some point there was a series  
9 of emails that were exchanged with Dr. Kaye  
10 and staff about emails that she received  
11 from a Teleakie (phonetic) Parker. Do you  
12 recall who that is?

13 A I don't recall.

14 Q Do you recall any e-mails that Dr.  
15 Kaye may have sent showing concern that her  
16 credentialing information, Social Security  
17 number, that stuff was being sought out of  
18 nowhere?

19 A Yeah. I think there was a while  
20 back, if I remember the details. I believe  
21 central office HR had messaged a large group  
22 of the staff related to a credentialing  
23 issue of some sort. I think there was a  
24 concern of who spoke to. It was a  
25 legitimate purpose.

1 J. WANGEL

2 Q So was this some kind of project  
3 per se?

4 A I mean it's an HR function. I  
5 think HR is required to keep everybody up to  
6 date as far as credentialing. It's just a  
7 function of HR if I remember, there was some  
8 concern about who and why they are asking.

9 Q Did any of the other center  
10 directors receive an e-mail as part of this  
11 initiative; do you recall?

12 A All I can say I believe it was  
13 initiative that involved clinical staff. I  
14 can't speak who did -- I really wasn't  
15 involved in the project.

16 Q It involved clinical staff?

17 MS. CANFIELD: Can you put an  
18 objection before. I got it out. I  
19 don't know if anyone heard me.

20 Q And you said it involved clinical  
21 staff; is that right?

22 A Credentialing clinical staff,  
23 yeah.

24 Q So I want to kind of go through a  
25 discussion of this fishing, of Dr. Kaye's

1 J. WANGEL

2 concern about fishing emails.

3 I'm going to first draw your  
4 attention to what will be marked as  
5 Plaintiff's Exhibit 17.

6 (Whereupon, Payroll Audit Report  
7 (NYC\_2159-2161) was marked as  
8 Plaintiff's Exhibit 17 for  
9 identification as of this date.)

10 Q For purposes of the record exhibit  
11 17 bears the Bates stamp series NYC\_2159,  
12 2160, 2161. Let me just make sure I share  
13 the screen.

14 You should be looking at the  
15 bottom of the Correctional Health  
16 services -- you should see Health and  
17 Hospitals corporation; Do you see that?

18 A HR payroll audit report.

19 Q Has there been any other audit  
20 reports exercises prior to this exercise to  
21 your knowledge, Mr. Wangel?

22 MS. CANFIELD: Objection as to  
23 form. Can we see the whole email  
24 again. I don't have this one in my  
25 batch.



1 J. WANGEL

2 MS. HAGAN: You have it  
3 actually. This is Defendant's  
4 production. I'm going to have to  
5 look through the documents because I  
6 did send you 125 pages worth of  
7 exhibits this morning. I think  
8 that's actually consistent with the  
9 number of pages that was produced  
10 for today. If there is a  
11 discrepancy, it seems you don't have  
12 any of the exhibits and that can't  
13 be true.

14 MS. CANFIELD: It's 165 pages.

15 MS. HAGAN: It should  
16 certainly should be there, but if  
17 it's not, I will get them to you.  
18 If it's there, I will direct you to  
19 the pages accordingly as to where  
20 they are. I apologize for any  
21 inconvenience, Ms. Canfield. I'll  
22 be sure to make sure that we get  
23 this right. I apologize.

24 Q So now, NYC\_2159 through 2161,  
25 right. And the bottom page is the Health

1 J. WANGEL

2 and Hospital audit report.

3 Now, I'm asking, Mr. Wangel, had  
4 there ever been an occasion prior to this  
5 exercise that CHS to your knowledge had  
6 engaged in any other exercise to this  
7 effect?

8 MS. CANFIELD: Objection. You  
9 can answer.

10 A So first of all, I'm not even sure  
11 what this is related to. It doesn't have  
12 anybody's name or I'm not even sure what  
13 this is. I'm not sure why you're calling it  
14 an exercise.

15 Q Have you seen one of these before?

16 A I'm sure. Looks like a standard  
17 mainframe-type printout.

18 Q For the purposes of the record so  
19 that's it's clear, it says, Health and  
20 Hospital Corporation HR payroll audit  
21 report. You see that, right?

22 A I see the title.

23 Q It says the business unit  
24 Correctional Health services. I'm going to  
25 ask you in your capacity, have you ever seen

1 J. WANGEL

2 an HR payroll audit report?

3 MS. CANFIELD: Is this the  
4 full document.

5 Q I'm asking in general. I'm not  
6 asking you for the whole document.

7 A I mean there's a whole bunch of  
8 different audits that are conducted. I  
9 can't tell you what information was related  
10 to who and for what period of time. I just  
11 don't know what this is and why --

12 Q These are reports generated by a  
13 system.

14 A I don't recall the specific  
15 purpose of this document.

16 Q I'm just asking you if you've seen  
17 any report of this nature before. I'm not  
18 saying this report. I'm asking you --

19 A You're showing me one quarter of a  
20 page. I don't recall what this is.

21 Q I'm asking you are these reports  
22 generated by Health and Hospitals, Mr.  
23 Wangel?

24 MS. CANFIELD: Objection.

25 A I would they are. Obviously from

1 J. WANGEL

2 the Health and Hospitals system, but I don't  
3 know if they are generated from Health and  
4 Hospital.

5 Q I'm asking have you ever seen one  
6 before? I'm going to scroll up. Counsel  
7 felt the need to --

8 A Obviously this is Dr. Kaye.

9 Q Okay, right. So here we have her  
10 title. Her paid leave of absence, any  
11 number of things, position number, effective  
12 status date.

13 A Okay.

14 Q Et cetera, right?

15 A Right.

16 Q Now, looking at page one and page  
17 two of this particular report for Dr. Kaye.  
18 I'm not sure who these other employees are.  
19 Have you ever seen one of these before?

20 A I can't recall seeing this  
21 document before. I may have, but I don't  
22 recall seeing it.

23 Q I'm not saying this document for  
24 any report similar to this, any other HR  
25 payroll audit reports, have you ever seen

1 J. WANGEL

2 any of them before?

3 A One, I'm not sure what an HR audit  
4 report is. I think it's titled audit  
5 report. I'm not sure what it's auditing.  
6 I'm not exactly sure of the purpose. I  
7 can't say that I've seen this particular  
8 report before.

9 Q Did you know that Dr. Kaye was  
10 part of an audit report exercise at any  
11 given point?

12 A I don't recall.

13 MS. CANFIELD: Objection as to  
14 form.

15 Q So then the CHS personnel actions,  
16 is this some kind of mail group? And, if  
17 so, who presides over the mail group?

18 A I guess personnel actions is HR  
19 mailbox. Copy, me, Laboy.

20 Q Nos, who would send an e-mail that  
21 says: Hi, attached you will find supporting  
22 documents for HR payroll audit report  
23 October 30. Kindly let us know if you have  
24 any questions. Thanks, Ali."

25 Who's Ali?

1 J. WANGEL

2 A Ali, she works for human  
3 resources.

4 Q She works for human resources,  
5 right?

6 Now this Dr. Y, who's signature do  
7 you know that to be?

8 MS. CANFIELD: Objection as to  
9 form. You can answer.

10 A I actually don't know. I've never  
11 seen that particular before.

12 Q Have you seen Dr. Yang ever sign  
13 her name that way before?

14 A I don't believe so, no.

15 Q So you're not sure if it is her or  
16 not?

17 MS. CANFIELD: Objection as to  
18 form. You can answer.

19 A I believe I already did -- no, I  
20 don't recognize that as Dr. Yang's  
21 signature.

22 Q But you can't say if it is or not.  
23 You can't say if that's Dr. Yang's signature  
24 or someone else's; am I right?

25 A I don't know who's signature that

1 J. WANGEL

2 is.

3 Q Have you seen this report now that  
4 we've reviewed it together?

5 A Honestly, I was copied on it and  
6 whoever called why it was run or who ran it  
7 or for what purpose, no.

8 MS. CANFIELD: I'm going to  
9 make sure you give me a chance to  
10 object, okay.

11 THE WITNESS: Sure.

12 Q I'm going to respectfully ask you.  
13 Dr. Kaye had some concerns, very serious  
14 concerns about being subject to fishing  
15 types of emails where her identity had been  
16 stolen in the past. Do you recall those  
17 conversations or any emails to that effect?

18 MS. CANFIELD: Objection as to  
19 form. You can answer.

20 A Only with regard to what you said  
21 previously about credentialing. I remember  
22 it being part of that coming to my attention  
23 in that context.

24 Q Right. And did anyone simply tell  
25 Dr. Kaye that there was an exercise being

1 J. WANGEL

2 done by random employees in which to review  
3 their credentials?

4 MS. CANFIELD: Objection to  
5 form. You can answer.

6 A I can't speak to what anybody else  
7 says to Dr. Kaye. I think I recall  
8 communicating with multiple unions. There  
9 was a concern from a number staff related to  
10 the union that it was, in fact, a legitimate  
11 business purpose.

12 Q Did anyone actually tell Dr. Kaye  
13 that this is being done?

14 A I can only speak to myself, and I  
15 don't recall if I did or didn't.

16 Q Why not?

17 A Why not? Why don't I remember?

18 Q You don't have any reason why  
19 you -- you don't remember even having an  
20 exchange with Dr. Kaye; am I right?

21 A That's correct. And I'll tell you  
22 typically a vast, vast, vast majority of the  
23 time unless a unionized staff member reaches  
24 out to me, I don't want to communicate with  
25 staff without a union rep. So if Dr. Kaye



1 J. WANGEL

2 has concerns, I would want her union to be  
3 part of the conversation at least know  
4 what's going. Not to say that these  
5 concerns aren't addressed. But there's  
6 comes a point the union should be there. I  
7 was communicating with multiple -- on  
8 multiple fronts related to this issue.  
9 There was a concern with a number of staff  
10 and a number of different --

11 Q What I'm going to do is I'm going  
12 to show you what's going to be marked as  
13 Plaintiff's Exhibit 18. Plaintiff's Exhibit  
14 18 bears Bates stamp series NYC\_2629,  
15 NYC\_2630. I'm going to show you the  
16 beginning of the document.

17 (Whereupon, Email  
18 (NYC\_2629-2630) was marked as  
19 Plaintiff's Exhibit 18 for  
20 identification as of this date.)

21 Q Now, before we get into the body  
22 of it. It says it's from Teleakie Parker,  
23 assistant coordinating manager of  
24 operations, right? Where would operations  
25 fall into the purview of your departments

1 J. WANGEL

2 over at CHS?

3 A It's separate and apart from  
4 labor, but I believe Ms. Parker she did work  
5 for operations at some point. Now, I'm not  
6 sure if HR was asking operations folks to  
7 help with this. I don't know. Operations  
8 is separate and apart from labor.

9 Q At some point Dr. Kaye was told  
10 that she was part of the project. Would you  
11 agree or was --

12 MS. CANFIELD: Objection. No  
13 foundation. You can answer.

14 Q Would you agree from what you've  
15 seen so far that Dr. Kaye was part of the  
16 project?

17 MS. CANFIELD: Objection.

18 A Part of the project?

19 Q Yes or no. What was Dr. Kaye part  
20 of the project?

21 MS. CANFIELD: Objection as to  
22 form. No foundation. Go ahead.

23 A I wouldn't call it a project. I  
24 say that it's a requirement that certain  
25 titles performing certain functions would be

1 J. WANGEL

2 credentialing.

3 Q So, Ms. Parker reaches out Dr.  
4 Kaye and on March 7, 2019. You see that,  
5 right?

6 A (No verbal response given.)

7 Q And she ask for a list of required  
8 documents that she must complete and submit.  
9 You see this, right?

10 A I do.

11 Q And she says she has to do so by  
12 March 11, 2019. You see that, right?

13 A I do. It says please submit  
14 before.

15 Q And the e-mail on March 7 at  
16 11:03 a.m., you see that? So she has about  
17 two business days to get all this stuff  
18 together, right?

19 If the e-mail is sent on Thursday,  
20 Mr. Wangel, and she only has 'til Monday,  
21 how many business days does that give her?  
22 It list at least one, two, three, four,  
23 five, six, seven, eight, nine, ten, eleven  
24 documents.

25 A Two and a half.

1 J. WANGEL

2 Q Maybe two and a half business days  
3 at best, right?

4 A Are you asking me?

5 Q Asking you. I'm trying to  
6 understand.

7 A I can never tell. Sometimes you  
8 at the end of the question you say right and  
9 you move on; sometimes you wait for a  
10 response. It's hard to know when you're  
11 asking me for an answer.

12 Q I'm working on that. I'm going to  
13 work on that.

14 A I'm trying to figure out when I'm  
15 suppose to answer that. Yeah, two and a  
16 half days.

17 Q Two and a half business days. So  
18 then Dr. Kaye responds to Ms. Parker she's a  
19 credential physician at H&H and has been  
20 since 1999. On July 1 the management of my  
21 department was moved from Bellevue to  
22 Correctional Health Services, both of which  
23 are under auspice H&H. Right? And we were  
24 told that the credentialing status of  
25 Bellevue court clinics employees would roll

1 J. WANGEL

2 over to CHS. I was never informed that I  
3 would be required to re-credential at CHS.

4 Is this true?

5 A I don't know. I see that I'm  
6 copied on this e-mail, but labor relations  
7 is not involved in any way in credentialing  
8 or re-credentialing.

9 Q I'm asking you if is it's true to  
10 carry over from what you understood.

11 A I never had a conversation or made  
12 aware of it was happening. I can speak  
13 generally that credentialing and  
14 re-credentialing happens all the time. I  
15 can't imagine that if you were credentialing  
16 once it carries on to your entire duration  
17 of employment with your employer. I don't  
18 know anything specific about was told to  
19 staff in regards to the transition here.

20 Q Mr. Wangel, you've been working  
21 now at H&H and CHS and whatever other entity  
22 is affiliated with this organization for a  
23 group of doctors and physicians for sometime  
24 now, at least since 2015. I think you  
25 probably know at this point that doctors

1 J. WANGEL

2 probably get re-credentialed every ten  
3 years; would that be accurate?

4 MS. CANFIELD: Objection as to  
5 form. You can answer.

6 A Again, labor is not responsible  
7 for credentialing, and I am not familiar  
8 with the rules.

9 Q Did you know, yes or no, that  
10 doctors were re-credentialed every ten  
11 years?

12 A No.

13 Q You're not really that familiar  
14 with the credentialing process; am I right?

15 A I know a little bit.

16 Q At any point did you represent to  
17 Dr. Kaye or anyone else if they had  
18 recurrent credentials at Bellevue that those  
19 current credentials would then be  
20 transferred over to CHS?

21 A I don't recall having any  
22 conversation about believe it or not whether  
23 or not another facilities credentialing  
24 process or verified credential carried over  
25 to CHS.

1 J. WANGEL

2 Q I'm going to ask you, were any  
3 doctors told that they would have to  
4 re-credential upon the transfer to CHS?

5 MS. CANFIELD: Objection as to  
6 form. You can answer.

7 A I can only speak for myself.  
8 Again, I'm not aware of those conversations.  
9 It's not part of any function. I was not  
10 part of any conversation or made aware of  
11 what was told instead.

12 Q Who would have had those  
13 conversations with Dr. Kaye?

14 A I don't know whether it would have  
15 been the former Bellevue. There's a whole  
16 credentialing unit for the system. I think  
17 it's handled centrally now. HR was clearly  
18 involved here because something had happened  
19 and they were asking for documents --  
20 re-credentialed as appropriate. So HR  
21 handles that function for CHS.

22 Q Who's Wilma Soto?

23 A She's the director of human  
24 resources I believe.

25 Q Did you send this e-mail direct to

1 J. WANGEL

2 Wilma Soto; am I right? That's what it says  
3 here, right?

4 MS. CANFIELD: Objection.

5 Documents speaks for itself.

6 Q Yes or no, did you send the e-mail  
7 to Wilma Soto?

8 A What you're showing me, yes. It  
9 shows I sent the e-mail to Ms. Soto.

10 Q Did you followup with Ms. Soto  
11 after this?

12 A I don't recall what the follow up  
13 was. I could have. I don't recall  
14 specifically.

15 Q Mr. Wangel, I'm certain you would  
16 agree with me that potentially having your  
17 ID, your Social Security number and birth  
18 date used for improper purposes can be of a  
19 grave concern to anyone; am I right?

20 A Sure.

21 Q And so being in your position and  
22 having spoken to Dr. Kaye about the  
23 transition, wouldn't it have been of  
24 interest to you for her or anyone else in  
25 her position that there's this initiative



1 J. WANGEL

2 and she shouldn't worry that it's not some  
3 kind of like issue. It's not some kind of  
4 like nefarious effort by anyone?

5 MS. CANFIELD: Objection as to  
6 form. You can answer.

7 A The question is whether or not I  
8 think somebody should have told Dr. Kaye  
9 that it was for a legitimate business  
10 purpose?

11 Q Yes.

12 A I believe those conversations were  
13 happening on a wide scale. This went well  
14 beyond Dr. Kaye's situation. Again, there  
15 was a whole host of staff who had concerns  
16 about this and timeframe. I think  
17 ultimately there were some adjudgments made  
18 as to the timeframe and the latitude people  
19 were given to provide documentation that  
20 need to be re-credentialed.

21 I understand the concerns for sure  
22 and that was conveyed to all the staff or by  
23 the union or by HR who had conversations  
24 with the staff.

25 Q I'm going to ask you, Mr. Wangel,

1 J. WANGEL

2 did you see fit at any given time to speak  
3 to Dr. Kaye about the fact that there was a  
4 legitimate business purpose allegedly for  
5 this re-credentialing exercise?

6 MS. CANFIELD: Objection as to  
7 form. You can answer.

8 A You're asking whether I felt I  
9 should personally reach out to Dr. Kaye or  
10 whether someone should reach out to Dr.  
11 Kaye?

12 Q Well, you delegate to someone else  
13 maybe you actually do so in writing so Dr.  
14 Kaye would at least know --

15 A Honestly, I had conversations with  
16 HR because HR knew I was having  
17 conversations. There was a very big concern  
18 and I was forwarding Dr. Kaye's concern to  
19 Ms. Soto, who works for HR and works with  
20 credentialing.

21 Q I'm going to enter into the record  
22 Plaintiff's Exhibit 19. Right? Plaintiff's  
23 Exhibit 19 bears the Bates stamp series  
24 NYC\_3004, 3005, 3006, 3007 and 3008, right?

25 (Whereupon, Email

1 J. WANGEL  
2 (NYC\_3004-3008) was marked as  
3 Plaintiff's Exhibit 19 for  
4 identification as of this date.)

5 Now, I'm going bring your  
6 attention to a portion of the e-mail where  
7 Dr. Kaye explains her position as to why  
8 she's adamant --

9 MS. HAGAN: Does someone have  
10 a dog in the background?

11 THE WITNESS: Yeah, I do. I'm  
12 sorry about that.

13 Q In the e-mail from Dr. Kaye to, I  
14 guess, spamadmin, why did Dr. Kaye's e-mail  
15 go to spam. Do you know?

16 MS. CANFIELD: Objection as to  
17 form. You can answer.

18 A It appears that's who she sent it  
19 to.

20 Q Okay, well, I don't know. It's  
21 dated March 11, 2019. It says, to whom it  
22 may concern, I have been a physician at HHC  
23 for two decades. I was hired in 1999. I  
24 was a victim of identity theft(inaudible).

25 A I see what you're saying.

1 J. WANGEL

2 Q "The detective who investigated my  
3 case at the time determined that it was  
4 probable that this breach occurred during my  
5 initial HHC credentialing process.

6 Following this negative experience I am  
7 vigilant in my efforts to protect against  
8 the misuse of my personal data." Right?

9 "My department was transferred from Bellevue  
10 hospital to Correctional Health Services  
11 July 1st, 2018. Since that time, I have  
12 been subjected to repeated privacy  
13 violations. With each occurrence I  
14 attempted to address the violation and was  
15 assured on two occasions, incorrectly, that  
16 the problem had been resolved."

17 Do you recall any of this?

18 MS. CANFIELD: Objection as  
19 form you can .

20 A Generally. I don't recall Dr.  
21 Kaye's e-mail specifically to spamadmin,  
22 which is an It box. You think you're  
23 getting something in your e-mail from an  
24 outside any type of spam-related thing.  
25 They typically block those types of

1 J. WANGEL

2 messages.

3 Q Further from some time away Dr.  
4 Ford go to it, and she sent it to Ms. Laboy  
5 who then CC's you. Right? This is on  
6 July 2, 2019. So at some so point it makes  
7 it out of the spam. And Dr. Ford then  
8 emails both of you. She says please send me  
9 whatever resolution you have for this.

10 A She didn't e-mail me. I was  
11 copied. She emailed HR.

12 Q Right. You're copied and so is  
13 Wilma Soto and Jessica Laboy.

14 A It's to Jessica and me as a CC.

15 Q Why would she CC you? I'm just  
16 curious.

17 MS. CANFIELD: Objection.

18 A I can't speak to why I'm copied on  
19 the e-mail.

20 MS. CANFIELD: Objection.

21 Jonathan, make sure you pause  
22 please.

23 THE WITNESS: Sorry.

24 Q Then Ms. Laboy continues CCing  
25 you. Then again Dr. Ford goes from CCing

1 J. WANGEL

2 you to actually addressing it to you. She  
3 says, who should I direct Melissa to speak  
4 to in Doctors' Council. And Ms. Laboy  
5 answers, Kevin, right? I guess she seeks  
6 additional guidance from Ms. Kent.

7 Did you have any further dealings  
8 or any further involvement in this issue  
9 with Dr. Kaye in fishing --

10 A No. I can tell you at the time --  
11 this is July 2019 -- I was basically tying  
12 up certain business at Correctional Health.  
13 I actually was there just to close out  
14 certain things, this not being one of those  
15 items. I was already transitioning to the  
16 new position at that point.

17 Q So I'm going to ask you now about  
18 some questions that are involved, that  
19 involved the Dr. Kaye's reporting of a 730  
20 exam.

21 A You can keep talking. I hear you.

22 Q So I'm going to ask you some  
23 questions that involve Dr. Kaye's recording  
24 of a 730 examination. Do you remember any  
25 of those of what happened?

1 J. WANGEL

2 MS. CANFIELD: Objection.

3 A I recall some of the circumstance,  
4 yes.

5 Q What do you recall? Let's start  
6 with that.

7 A I recall that there was an  
8 instance where Dr. Ford became aware of  
9 reviewing the transcripts that Dr. Kaye was  
10 recording certain proceedings on a personal  
11 device of the notes to the Court and there  
12 were others taking part in the hearing.

13 Q First and foremost, let's kind of  
14 put this into context. How familiar are you  
15 with 730 examinations from this point?

16 A Not very.

17 Q You're very familiar with them?

18 A I said not very.

19 Q Where does 730 examinations take  
20 place?

21 A Where did it take place?

22 Q Where did it typically take place?  
23 Where?

24 MS. CANFIELD: Objection as to  
25 form. You can answer.

1 J. WANGEL

2 A I believe Dr. Kaye's place of  
3 business in the court clinics.

4 Q We're not talking about a hearing.  
5 We're talking about the examinations. To  
6 your understanding what is a 730  
7 examination, Mr. Wangel?

8 MS. CANFIELD: Objection as to  
9 form. You can answer. He said he  
10 wasn't that familiar, so.

11 MS. HAGAN: I think you're  
12 prompting the witness.

13 A Yeah.

14 Q To your knowledge, Mr. Wangel,  
15 what is a 730 examination?

16 A I believe it has to do with  
17 fitness to stand trial.

18 Q Would you say that the 730  
19 examination process for forensic psychiatry  
20 is distinct from treatment?

21 MS. CANFIELD: Objection as to  
22 form. You can answer.

23 A I can't speak to the area of  
24 the -- I don't know. It's not my area of  
25 expertise. I have no idea.



1 J. WANGEL

2 Q At some point you made a  
3 determination that Dr. Kaye should not have  
4 recorded the examinations she conducted; am  
5 I right?

6 MS. CANFIELD: Objection.

7 A Sorry. Yeah, I noticed, and -- no  
8 that is not correct.

9 Q Who made the determination you  
10 should not record the examination?

11 MS. CANFIELD: Objection.

12 A So the issue itself was sent to  
13 corporate compliance for a determination.  
14 That's what corporate compliance does.

15 Q Who sent it to corporate  
16 compliance, Mr. Wangel?

17 A I believe I did.

18 Q Why did you send it corporate  
19 compliance?

20 A Because it's not a labor relations  
21 determination to make.

22 Q Did Ms. Yang tell you to send it  
23 to corporate compliance?

24 A We definitely discussed it, and  
25 then I think jointly we decided that was the

1 J. WANGEL

2 appropriate remedy to -- whether or not it  
3 was appropriate.

4 Q So you and Ms. Yang determined  
5 that you should send, I guess, the matter to  
6 corporate compliance.

7 Now, Mr. Wangel, how did you come  
8 to learn that Dr. Kaye recorded the  
9 examination?

10 MS. CANFIELD: Asked and  
11 answered. You can answer it again.

12 A I believe Dr. Ford brought it to  
13 my attention.

14 Q Who?

15 A Dr. Ford.

16 Q Dr. Ford.

17 Dr. Ford contacted you and told  
18 you that Dr. Kaye had recorded an  
19 examination. Do you recall when that  
20 conversation took place?

21 A I don't remember the exact timing.

22 Q She emailed you?

23 A I'm sure she did.

24 Q And how did she, I guess,  
25 substantiate or support her claim that --

1 J. WANGEL

2 MS. CANFIELD: Objection.

3 COURT REPORTER: Can you  
4 repeat that.

5 Q How did Dr. Ford support her claim  
6 or back up her claim that Dr. Kaye had  
7 recorded the examination?

8 A To my understanding, if my  
9 recollection is correct that in her -- I  
10 can't speak to her what she does, her  
11 day-to-day clinical work in the course of  
12 business at H&H. I think she was reviewing  
13 the transcript and was actually in the court  
14 transcript that Dr. Kaye had testified she  
15 recorded it.

16 Q I mean you're an attorney, Mr.  
17 Wangel, right?

18 A That's correct.

19 Q So for Dr. Ford to be reviewing a  
20 transcript of what, of a court hearing. Do  
21 you recall what it was?

22 MS. CANFIELD: Objection to  
23 form. You can answer.

24 A I don't recall.

25 Q Did you read the transcript

1 J. WANGEL

2 yourself, Mr. Wangel?

3 A I believe at the time I did.

4 Q Do you remember that Dr. Kaye was  
5 testifying at the controverting hearing?

6 A I don't recall that.

7 Q Do you know what a controverting  
8 hearing is?

9 A I don't.

10 Q So you're reading a transcript,  
11 you're not sure why Dr. Kaye was testifying  
12 or the context at which she was testifying.  
13 But Dr. Ford brings this to your attention,  
14 and you read this transcript; am I right?

15 A I read the portion that was  
16 relevant to the recording.

17 Q You read a portion of the  
18 transcript. You didn't read the entire  
19 controversion hearing transcript; am I  
20 right?

21 MS. CANFIELD: Objection as to  
22 form. You can answer.

23 A I'd say that's accurate.

24 Q You don't know if any person who  
25 engaged in evaluations or examinations had

1 J. WANGEL

2 actually recorded the inmate or defendant in  
3 that instance?

4 MS. CANFIELD: Objection as to  
5 form. You can answer.

6 A If I was aware who recorded?

7 Q First off, do you know if anyone  
8 else testified besides Dr. Kaye that day?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A I don't recall I definitely read a  
12 portion of the transcript. I can't say that  
13 I read the entire thing. I read the portion  
14 that was relevant to the recording.

15 Q Did you know that there were two  
16 other people who actually testified at the  
17 controversion hearing?

18 A I don't recall.

19 Q Did you read that Dr. Winkler  
20 testified at any point?

21 A I don't recall.

22 Q Dr. Nicole Charter testified at  
23 the controversion hearing.

24 MS. CANFIELD: Objection.

25 A I don't recall.

1 J. WANGEL

2 Q Did at any point did it come to  
3 your attention that Dr. Charter actually  
4 recorded her examination?

5 MS. CANFIELD: Objection.

6 Assumes facts. You can answer.

7 A I don't recall.

8 Q So, Mr. Wangel, you made a  
9 determination with Ms. Yang that what was  
10 brought to your attention by Dr. Ford needed  
11 to be referred to corporate compliance; is  
12 that right?

13 MS. CANFIELD: Objection.

14 A Can you just repeat the whole  
15 question. Say it again.

16 Q At some point you and Ms. yang  
17 came to the determination that Dr. Kaye's  
18 recording of one examination should be  
19 brought to corporate compliance, right?

20 MS. CANFIELD: Objection as to  
21 form. You can answer.

22 A So the head, the chief of the  
23 mental health service and the head of  
24 Correctional Health had concerns. It was  
25 not an appropriate topic for labor and

1 J. WANGEL

2 relations to investigate and we sent it to  
3 corporate compliance, which is an entity  
4 that's outside of Correctional Health. And  
5 that is what the corporate compliance office  
6 does. They make an examination of whether  
7 something was appropriate or not.

8 Q I'm going to ask you something.  
9 Was there a policy, a written policy against  
10 recording at the time that this referral was  
11 made to the corporate compliance department?

12 A I don't believe so.

13 Q So why was a determination made to  
14 defer the matter to corporate compliance if  
15 there had been no policy in place to begin  
16 with?

17 A There's not a policy on every  
18 subject; otherwise we'd have a huge number  
19 of policies. So in this case it seemed as  
20 if the conduct at least raised some concerns  
21 at the very least, and it was coming to me  
22 from the highest folks in the mental health.  
23 And the decision was made to send the issue  
24 to corporate compliance.

25 Q At any point did you reference any

1 J. WANGEL

2 materials to bolster or support or to guide  
3 Ms. Yang or Dr. Ford in their assessment of  
4 the situation, since there was no policy  
5 that CHS had in place?

6 MS. CANFIELD: Objection as to  
7 form. You can answer you .

8 A Not exactly sure what you mean.

9 Q Well, for example, CHS never had a  
10 policy against recording examinations in  
11 place; am I right?

12 MS. CANFIELD: Objection as to  
13 form. You can answer.

14 A Yes. That was my attorney.

15 Q And you're an attorney and you  
16 know that New York is a one-party recording  
17 state; am I right?

18 MS. CANFIELD: Objection as to  
19 form. You can answer.

20 A I'm an attorney.

21 Q Your an attorney, but did you know  
22 that New York State is a one-party recording  
23 state?

24 MS. CANFIELD: Objection.

25 A Generally. But I'm not a privacy



1 J. WANGEL

2 lawyer. I don't know if there are other  
3 situations where it might not be appropriate  
4 to record.

5 Q During the course of this exercise  
6 did you do any research whatsoever in order  
7 to make an informed assessment as to whether  
8 Dr. Kaye engaged in inappropriate conduct?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A Like I said the issue was sent to  
12 corporate compliance. That's their job.  
13 It's not my job to do that.

14 Q I'm going to show you some  
15 exhibits.

16 If it wasn't your job, Mr. Wangel,  
17 I'm surprised you were reading the  
18 transcript to begin with. Why was that?

19 MS. CANFIELD: Objection.

20 It's argumentative, but you can  
21 answer.

22 A By the head of the mental health  
23 service who had some concerns, and it's  
24 difficult to know how to respond to that  
25 without reading what was said.

1 J. WANGEL

2 Q Couldn't you have said at some  
3 point at the beginning of the exchange, it's  
4 not my purview, Ms. Yang, I think you should  
5 do something different?

6 MS. CANFIELD: Objection as to  
7 form. You can answer.

8 A Ms. Yang or Ms. Ford?

9 Q It was Dr. Ford and Ms. Yang.  
10 First Dr. Ford approached you; am I right?

11 A I believe that's correct. I think  
12 she did reach out.

13 Q At that point couldn't you have  
14 said, hey, Dr. Ford, I don't think this is  
15 in my scope, my work area. I don't really  
16 know too much about this process and this  
17 doesn't seem like something that would be  
18 under my purview, right?

19 MS. CANFIELD: Objection. You  
20 can answer.

21 A That was the ultimate decision  
22 that was made. That's what happened.

23 Q Actually it's not in writing  
24 that's what happened. Instead something  
25 else transpired in writing. Let's look at

1 J. WANGEL

2 that.

3 Let's go into Plaintiff's Exhibit  
4 20. Right? Plaintiff's Exhibit 20, let's  
5 start at the bottom. And it's an e-mail  
6 from you --

7 (Whereupon, Email  
8 (NYC\_2688-2690) was marked as  
9 Plaintiff's Exhibit 20 for  
10 identification as of this date.)

11 Q The bate stamp, Exhibit 20 bears  
12 the Bates stamp number NYC\_2688, 2689 and  
13 2690. Do you see it?

14 MS. CANFIELD: I don't have  
15 this either.

16 MS. HAGAN: It should be in  
17 that file. From what you're saying,  
18 I didn't send you anything, and I  
19 know that's not true. I will go  
20 through them and mark each page.  
21 I'm certain I sent you all of with  
22 my note and the package. And you  
23 can send the package to the Court so  
24 they can see that I actually sent  
25 them all. Let's keep going.

1 J. WANGEL

2 Q So, Mr. Wangel, the e-mail starts  
3 on March 20, 2019. You see that, right?

4 A I did.

5 Q It's from you to Ms. Patsos,  
6 right? And you're referring the matter to  
7 her. And you say, it appears Dr. Kaye a  
8 psychiatrist in CHS forensic psychiatric  
9 evaluation court clinics electronically  
10 recorded on multiple occasions evaluations  
11 of patients.

12 Where is the evidence that Dr.  
13 Kaye did so on multiple occasions? What  
14 were the other occasions? Do you know?

15 A I don't recall.

16 Q So the recordings appear to have  
17 been created without the consent of the  
18 patient or counsel.

19 Now, Dr. Kaye is a forensic  
20 psychiatrist. Do you know that forensic  
21 psychiatrist don't treat the inmates that  
22 they engage?

23 A Yes, right. They are there to  
24 make an evaluation.

25 Q You're referring to the

1 J. WANGEL

2 defendant/inmate as a patient. They are not  
3 her patient.

4 A So --

5 MS. CANFIELD: I don't think  
6 there was a question there,  
7 Jonathan.

8 Q No, I'm asking you. Are you aware  
9 that inmate and defendants that Dr. Kaye was  
10 seeing at that time were not her patients?

11 MS. CANFIELD: Objection.

12 A I can tell you that Correctional  
13 Health and Health and Hospitals is in the  
14 business of care, and we do not refer to  
15 persons in custody as inmates.

16 Q Well, Dr. Kaye is not taking care  
17 of an inmate. She's examining them.

18 A I don't either, but I refer to the  
19 folks who are incarcerated as patients.

20 Q Clear here that Dr. Kaye is not  
21 acting as a treating physician. She's  
22 acting as an evaluator, which is distinct  
23 from being a treating physician. I mean the  
24 repercussion from using the wrong  
25 terminology could potentially have an impact

1 J. WANGEL

2 on Dr. Kaye to actually practice medicine,  
3 which is what happened after this exchange  
4 was taken place. I'm just pointing this out  
5 to you.

6 MS. CANFIELD: Now are you  
7 testifying or are you trying to --

8 MS. HAGAN: I'm going further  
9 into the e-mail.

10 Q The recordings appear to have been  
11 created without the consent of the patient  
12 or counsel. It is not the practice of CHS  
13 to electronically record evaluations.

14 Now, CHS only had the court  
15 clinics and its purview, and their purview  
16 since 2018. Would that be accurate?

17 MS. CANFIELD: Objection as to  
18 form. You can answer.

19 A I believe so.

20 Q You sure that there wasn't any  
21 interactions between CHS and the court  
22 clinics in 2015?

23 A Correctional Health services  
24 became part of Health and Hospitals again.  
25 It was -- multiple times in 2015. I can't

1 J. WANGEL

2 speak to if there was interaction. Again, I  
3 do labor, not med work, so I don't know.

4 Q How did you make a determination  
5 that it was not a practice of CHS to  
6 electronically record evaluations?

7 A How did I make that determination?

8 Q Yes.

9 A I believe I asked Dr. Ford. And I  
10 can tell you that previously you asked about  
11 why I referred to as a patient. I believe  
12 that folks who appear in are already in US  
13 custody are under the care of CHS. Whether  
14 it's Dr. Kaye's patient or a patient of  
15 Correctional Health, we refer to those folks  
16 as patients and not inmates.

17 Q Just to be clear, Dr. Kaye over  
18 the 20-year career working at the court  
19 clinics never had a patient. She has never  
20 treated any of the inmates that she has  
21 evaluated over the years, so they are not  
22 her patients.

23 MS. CANFIELD: Ms. Hagan, you  
24 misstated --

25 MS. HAGAN: You're having a

1 J. WANGEL

2 speaking objection and that's  
3 inappropriate, I'm going back to  
4 what I'm saying.

5 Q So Dr. Kaye has never had a  
6 patient; would you agree? If the  
7 evaluator -- to your knowledge have you  
8 known Dr. Kaye to ever treat any of the  
9 inmates that she has seen and has  
10 evaluated?

11 MS. CANFIELD: Objection as to  
12 form. You can answer.

13 A Again, we don't refer Correctional  
14 Health, Health and Hospital do not refer  
15 incarcerate person as -- my e-mail said the  
16 recordings appear to have been potentially  
17 created without the consent of the patients,  
18 not without the consent of Dr. Kaye's  
19 patients.

20 Q I'm going to proceed. Not it is  
21 not the practice of CHS - now, CHS has the  
22 court clinics in their purview from anywhere  
23 from three years to maybe one year and a  
24 half at this time. How does CHS have any  
25 practice of doing anything if they have



1 J. WANGEL

2 never managed the court clinics prior to?

3 MS. CANFIELD: Objection as to  
4 form. You can answer.

5 A Again, as a person who works in  
6 labor relations, I don't know. I'm not  
7 involved in the rational as to why this  
8 program moved to Correctional Health. I  
9 don't know any why they specifically  
10 expertise with regards to FPECC asking Dr.  
11 Ford, Dr. yang or anybody else. It's not my  
12 position.

13 Q You made statements, conclusory  
14 statements here without knowing for certain  
15 and actually not seeing anyone practice and  
16 not actually engaging anyone. You're saying  
17 that there's a practice and you're not even  
18 sure of it yourself; am I right?

19 MS. CANFIELD: Objection as to  
20 form. You can answer.

21 Argumentative and harassing.

22 Q I'm going to ask you have you ever  
23 seen a practice or not of the evaluators  
24 electronically or not electronically  
25 recording the examinations?

1 J. WANGEL

2 A I was informed that it's not a  
3 practice. And in this instance my  
4 understanding Dr. Kaye used a personal  
5 device, right, and are there other potential  
6 risk with using a personal device to record  
7 work product and that was one of the reasons  
8 why it was considered --

9 Q I'm going to ask you something,  
10 Mr. Wangel, have you ever sat in on a 730  
11 examination up until this point?

12 A No.

13 Q Have you sat on one after these  
14 allegations have come to light?

15 A No. I haven't.

16 Q How do you know what the practice  
17 is first hand?

18 MS. CANFIELD: Objection.

19 A First hand, I wouldn't.

20 Q You would not know firsthand what  
21 the practice was because you have never  
22 attended a 730 evaluation, have you?

23 MS. CANFIELD: Objection. You  
24 can answer -- again.

25 A I have never attended a 730 exam.

1 J. WANGEL

2 And my information was based on the  
3 information I received from the chief of  
4 mental health for Correctional Health  
5 Services. It is not the practice of FPECC  
6 or CHS to record these examinations.

7 Q Regardless of who the information  
8 came from, as an attorney wouldn't it  
9 constitute hearsay anyway; since you don't  
10 have any firsthand knowledge yourself of  
11 what the practice is?

12 MS. CANFIELD: Objection. You  
13 can answer.

14 A I'm not sure how the 730 is  
15 corporate compliant.

16 Q You don't have any firsthand  
17 knowledge and as a practicing attorney you  
18 do know what the concept of hearsay; am I  
19 right?

20 MS. CANFIELD: Objection, as a  
21 practicing attorney. He testified  
22 that he wasn't functioning as  
23 counsel.

24 Q This man went to three years of  
25 law school, he has passed the bar

1 J. WANGEL

2 examination, he has taken -- I'm assuming he  
3 knows what the definition of hearsay is;  
4 don't you, Mr. Wangel?

5 MS. CANFIELD: Objection as to  
6 form. You can answer.

7 A So I'm not sure why you think this  
8 is a corporate -- whatever. What my emails  
9 says it appears that Dr. Kaye, right,  
10 electronically recorded.

11 Q You say it is not the practice.  
12 We were going back to the practice. You are  
13 saying there is a practice at CHS that you  
14 have no firsthand knowledge that exist. You  
15 have never been to a 730 examination, you  
16 said that, right? At this time you have  
17 never been to one and after this e-mail you  
18 said you have never been to one, right?

19 So you don't know firsthand what  
20 the practice of CHS is as it pertains to  
21 whether or not these exams are recorded or  
22 not; am I right?

23 MS. CANFIELD: Objection as to  
24 form. You can answer.

25 A You are correct to say I never

1 J. WANGEL

2 attended a 730. This e-mail conversation  
3 had a CHS chief of the mental health service  
4 who is in charge of the entire mental health  
5 service including FPECC who says it is not  
6 the practice, and that's what I was  
7 conveying to corporate compliance.

8 Q What I am asking you is whether  
9 you had any firsthand knowledge about any  
10 CHS policy of recording evaluations. Have  
11 you seen that in practice yourself because  
12 there is no written policy; we agreed to  
13 that. Have you seen an actual policy in  
14 practice where electronically recording  
15 evaluations is prohibited?

16 MS. CANFIELD: Objection. You  
17 can answer.

18 And can we move off this  
19 point. I think you've made your  
20 point.

21 A Yeah. There was no policy at the  
22 time specifically in this instance. But  
23 again, this involved a personal device and  
24 there are policies in place about recording  
25 on something that's not a CHS device.

1 J. WANGEL

2 Q That policy took place after this  
3 transpired; would that be correct?

4 MS. CANFIELD: Objection as to  
5 form. You can answer.

6 A There are plenty of private  
7 policies that are corporate wide.

8 Q Was the policy drafted after Dr.  
9 Kaye was accused of doing this?

10 A What policy?

11 Q A policy that prohibited or at  
12 least, I guess, threatened some kind of  
13 disciplinary action should anyone engage in  
14 the recording of anyone at HHC going  
15 forward.

16 MS. CANFIELD: Objection.

17 A A policy was put in place  
18 afterward; that is correct.

19 Q Afterwards. Not beforehand.

20 A That particular policy was after  
21 this occurrence, correct.

22 Q Now, in the course of the policy  
23 being drafted, did you participate in the  
24 drafting of that policy, Mr. Wangel?

25 A I believe so. I don't recall the

1 J. WANGEL

2 specifics though.

3 Q Did you read anything -- did you  
4 ever read anything from APPL about recording  
5 of examinations?

6 MS. CANFIELD: Objection as to  
7 form. You can answer.

8 A I don't believe so.

9 Q Why not?

10 A Why didn't I?

11 Q Right. Why didn't you?

12 A I don't know. I can't.

13 Q So at some point Dr. Yang gives  
14 you what appears to be a thumbs up regarding  
15 the recording on April 4. You see that,  
16 right?

17 MS. CANFIELD: Objection as to  
18 form. Where is that?

19 Q Thumb mark here. You see this,  
20 right?

21 A I do.

22 Q Clearly been referred and  
23 everything else. Was this a thing that's  
24 common between you and Dr. Yang regarding  
25 matters of this nature?

1 J. WANGEL

2 MS. CANFIELD: Objection as to  
3 form. You can answer.

4 A Is what something that's common?

5 Q Well, she's sending you thumbs up  
6 like this is great. Right? Isn't that  
7 usually what that means?

8 A I think it's pretty common. More  
9 of an acknowledgment that I followed up. I  
10 don't know if it means certainly means a  
11 good thing. Thumbs up is an acknowledgment  
12 of my response.

13 Q Would be it fair to say that Dr.  
14 Kaye was not in Dr. Yang's good graces at  
15 this point?

16 MS. CANFIELD: Objection as to  
17 form. You can answer.

18 A I can't answer that.

19 Q You can't say that you never heard  
20 Dr. Yang say anything negative about Dr.  
21 Kaye?

22 A Not that I recall. I mean we  
23 discussed the topic that we just talked  
24 about only about the appropriate steps we  
25 would take.



1 J. WANGEL

2 Q At any point did you hear Dr. Yang  
3 say that Dr. Kaye was difficult to work  
4 with?

5 MS. CANFIELD: Objection.

6 A No.

7 Q Or that others complained that Dr.  
8 Kaye was difficult to work with?

9 A I don't believe so, but I'm not  
10 sure who you're speaking about.

11 Q I'm talking about Dr. Yang. Did  
12 you ever hear Dr. Yang say that others  
13 complained about Dr. Kaye being difficult to  
14 work with?

15 MS. CANFIELD: Objection as to  
16 form. You can answer.

17 A No.

18 Q So you didn't -- so at this point  
19 you're not saying that there was any  
20 animosity or retaliatory animus toward Dr.  
21 Kaye by Dr. Yang?

22 A I can't say that, no.

23 Q And you're saying that Dr. Yang  
24 never miff that Dr. Kaye filed the EEOC  
25 charge against her and HHC?

1 J. WANGEL

2 A You keep using that word miff. I  
3 never heard Dr. Yang or myself use the word  
4 miff.

5 Q So you're saying you've never used  
6 the word miff before?

7 A I don't believe so.

8 Q I'm going to show you what is  
9 going to be marked as Plaintiff's Exhibit  
10 21.

11 (Whereupon, Email (NYC\_2794,  
12 2797-2800) was marked as  
13 Plaintiff's Exhibit 21 for  
14 identification as of this date.)

15 Q Plaintiff's Exhibit 21 bears the  
16 Bates stamp series NYC\_ -- I'm going to show  
17 you what will be marked as Plaintiff's  
18 Exhibit 21. And Plaintiff's Exhibit 21  
19 bears the bate stamp series NYC\_2794. Then  
20 it skips to NYC2797, 2798, 2799, and let me  
21 move this up, 2800.

22 A Actually nothing on the screen.

23 Q You should see the corporate  
24 compliance report, right? Do you see that  
25 it should say confidential and the water

1 J. WANGEL

2 mark; do you see that?

3 A I do.

4 Q So first to give us context I'd  
5 like to show you an e-mail. It's an e-mail  
6 from Dr. Yang to Dr. Ford, Dr. MacDonald and  
7 yourself. You're CC'd on this; you see this  
8 right?

9 A Hold on.

10 Q It's an e-mail from Dr. Yang to  
11 Dr. Ford, Dr. MacDonald and then yourself;  
12 you see that right?

13 A I do.

14 Q It's dated May 9, 2019, and as an  
15 attachment it has a summary investigation  
16 memorandum. You see that right?

17 A Yeah.

18 Q And then to go further down into  
19 it, it says from Ms. Patso to Ms. Doctor  
20 Yang and yourself and Sophia. It says, Hi,  
21 Patsy. Please see the attached memorandum  
22 summarizing the Office of Corporate  
23 Compliance investigation of the report  
24 regarding Dr. Kaye, including  
25 recommendations. Please let me know if you

1 J. WANGEL

2 have any questions.

3 Did you read this summary,  
4 confidential investigatory memorandum?

5 A I'm sure I did.

6 Q You did. Did you have any input  
7 as far as the content of the memorandum or  
8 any suggestions thereafter?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A Non whatsoever.

12 Q None. Did you talk to anyone  
13 about the context of the memorandum?

14 A You're talking about before this,  
15 you're saying; is that what you're asking  
16 me?

17 Q Well, either before or after.

18 A Well, clearly there was  
19 conversations post the issuance of the  
20 report. I had nothing to do with the  
21 investigation about corporate compliance or  
22 what was being investigated. It was  
23 completely insulated office.

24 Q If it had been determined Dr. Kaye  
25 had actually violated an established policy

1 J. WANGEL

2 at H&H, right, I guess wouldn't she have  
3 encountered your office in terms of  
4 discipline if that was the case?

5 MS. CANFIELD: Objection as to  
6 form. You can answer.

7 A Could you just repeat the first  
8 part of your question.

9 Q If, in fact, there had been an  
10 established policy in place, right, where  
11 recording was prohibited and Dr. Kaye  
12 allegedly violated that established policy  
13 and she was subjected to punitive measures;  
14 would your office have had to engage her at  
15 that point?

16 A If the report required -- if the  
17 report recommended disciplinary action  
18 against Dr. Kaye through labor than, yes.

19 Q As a member of the collective  
20 bargaining unit, wouldn't Dr. Kaye have  
21 fallen under labor if she had, in fact,  
22 reached an established CHS policy?

23 MS. CANFIELD: Objection. You  
24 can answer.

25 A I mean I'm not sure I totally

1 J. WANGEL

2 understand the question. Could you repeat  
3 it or rephrase it.

4 Q Well, the policy subsequently  
5 wrote after all this transpired, right, Dr.  
6 Kaye allegedly did it again, right.  
7 Wouldn't she have had the conversation  
8 subjected to your office's jurisdiction at  
9 that point if she had actually violated the  
10 established policy put in place after this  
11 incident took place?

12 MS. CANFIELD: Objection.

13 Asked and answered. You can answer  
14 it again.

15 A Only if the decision was made to  
16 actually proceed with the administrative  
17 disciplinary.

18 Q Who would have made that decision  
19 Mr. Wangel?

20 A You're asking me on a what-if  
21 scenario. I don't know.

22 Q In this instance, who would have  
23 made the decision to discipline Dr. Kaye?

24 A It which instance?

25 Q In this instance. I mean there

1 J. WANGEL

2 were all these findings, right. It was  
3 determined there wasn't a written policy in  
4 place; it was determined that New York is a  
5 one-party reporting state. It was also  
6 determined at that time -- these are  
7 findings here. I'm not just making it up.  
8 The findings kind of speak for themselves --  
9 that the AAFPL did not prohibit or stated it  
10 was against any ethical standards to  
11 actually record. In fact, the paper  
12 examines both pros and cons of recording.

13 So the question, therefore, is --  
14 I'm referencing this article here. That's  
15 what I'm talking about AAFPL, the American  
16 Academy of Forensic Psychiatry Laws, which  
17 you said you didn't look at when you were  
18 kind of discussing whether or not it would  
19 be appropriate to pursue any kind of action  
20 against Dr. Kaye. Before I get further --  
21 I'm sorry.

22 MS. CANFIELD: Is there a  
23 question here?

24 MS. HAGAN: I'm stopping  
25 myself.

1 J. WANGEL

2 Q Mr. Wangel, you represent members  
3 of the collective bargaining union, right?

4 MS. CANFIELD: Objection.

5 A No.

6 Q You don't represent. You preside  
7 over an office that deals with employees  
8 that are members of unions, right?

9 MS. CANFIELD: Objection.

10 Already answered.

11 A That's fair to say.

12 Q You're fairly familiar with the  
13 term aggressive discipline; am I right?

14 A I am.

15 Q Now, would you say getting a memo  
16 of this nature would be the first step of  
17 the disciplinary process or somewhere in the  
18 middle?

19 MS. CANFIELD: Objection as to  
20 form. You can answer.

21 A Neither.

22 Q Huh?

23 A Neither. I would say it's  
24 neither.

25 Q Where would this document fall in



1 J. WANGEL

2 the purview, in the spectrum of discipline?

3 A Which document are you referring  
4 to?

5 Q I'm talking about the memorandum  
6 that Dr. Kaye eventually received that  
7 basically said that she had engaged in  
8 inappropriate recording of an inmate?

9 A The memo from Dr. Ford.

10 Q Yes.

11 A It would be outside of discipline.

12 Q How could it be outside of  
13 discipline? She's being warned if she does  
14 it again she's going to be either written up  
15 or terminated; how is that not discipline?

16 MS. CANFIELD: Objection. You  
17 can answer.

18 A So there's a counsel conducted  
19 member of management, the supervisor and is  
20 outside of labor relations. My office has  
21 no involvement with this issue. There's no  
22 charges, there's no hearing, that should be  
23 supervisor counseling.

24 Q I'm going to ask you something  
25 supervisory counsel could it just been a

1 J. WANGEL

2 verbal discussion rather than a written  
3 document that Dr. Kaye may have continue to  
4 refer to unless it was removed from her  
5 file?

6 MS. CANFIELD: Objection as to  
7 form. You can answer.

8 A You're asking me, could it have  
9 been done verbally.

10 Q Yes.

11 A A conversation could have  
12 happened. Sure.

13 Q Why did management feel the need  
14 to reduce this to writing especially if it  
15 potentially continued to have an impact of  
16 Dr. Kaye's employability going forward?

17 MS. CANFIELD: Objection.  
18 Assume facts. You can answer.

19 A I can't speak for Dr. Ford. That  
20 came from Dr. Ford. I can't speak for her.  
21 It didn't come from my office.

22 Q So Dr. Ford is the person that  
23 determined that Dr. Kaye should receive a  
24 written memo; is that right?

25 MS. CANFIELD: Objection as to

1 J. WANGEL

2 form. You can answer.

3 A I just know she issued it. I  
4 can't say for certain it was her.

5 Q I'm going to show you what's going  
6 to be marked as Plaintiff's Exhibit 22.  
7 Plaintiff's Exhibit 22 bears bate series  
8 NYC\_2804, right?

9 (Whereupon, Email (NYC\_2804) was  
10 marked as Plaintiff's Exhibit 22  
11 for identification as of this  
12 date.)

13 Q And it starts with an e-mail from  
14 Ms. Patso to Dr. Yang and yourself and, I  
15 guess, Ms. Khalid again, right. And it goes  
16 back to referencing the office of corporate  
17 investigation, right; you see that right?

18 MS. CANFIELD: Can we see the  
19 bate stamp, please.

20 MS. HAGAN: The bate stamp is  
21 NYC\_2804. That's it.

22 Q Scroll up. From Dr. Ford to  
23 Dr. Yang and doctors MacDonald and yourself,  
24 Mr. Wangel; you see that right?

25 A I see that.

1 J. WANGEL

2 Q Dr. Ford specifically says, thank  
3 you. I'm out tomorrow, but we'll follow up  
4 on Monday about the discipline. You see  
5 that right?

6 A I see that, yeah.

7 Q You see the word discipline in Dr.  
8 Ford's e-mail; am I right?

9 A I do.

10 Q You just testified that it wasn't  
11 disciplinary, but clearly Dr. Ford believes  
12 at this time that it's a disciplinary memo,  
13 right?

14 MS. CANFIELD: Objection. You  
15 can answer.

16 A Possibly.

17 Q She's using that terminology; am I  
18 right?

19 A She used the term discipline.

20 Q So then I'm going to show you  
21 another document. This is going to be  
22 marked as Plaintiff's Exhibit 23 and it  
23 bears the Bates series the first page would  
24 be NYC\_2869, NYC\_2870. This would be  
25 Plaintiff's Exhibit 23.

1 J. WANGEL  
2 (Whereupon, Email  
3 (NYC\_2869-2870) was marked as  
4 Plaintiff's Exhibit 23 for  
5 identification as of this date.)

6 Q I guess to go back into a full  
7 discussion, this is another incident that  
8 Dr. Kaye is alleged to have engaged in, I  
9 guess, in some kind of inappropriate conduct  
10 of sorts. So here there's a complaint from  
11 Andrea Swenson to Dr. Jain and Mr. Muirjr.  
12 You see this, right?

13 A I see what's displayed.

14 Q Do you recall Ms. Swenson  
15 complains about an interaction that she had  
16 with Dr. Kaye?

17 MS. CANFIELD: Objection.

18 A Vaguely. Without --

19 Q Do you need to read the e-mail?

20 A I do.

21 Q Why don't I give you sometime to  
22 read that.

23 A Okay.

24 Q I'm going to ask you some more  
25 questions, right.

1 J. WANGEL

2 Now, Mr. Wangel, after reading  
3 this e-mail does this refresh your  
4 recollection?

5 A A little bit. It's kind of all  
6 over the place.

7 Q Well, Ms. Swenson wrote this now  
8 and Ms. Swenson seemed to be upset; am I  
9 right?

10 A I guess so. If you say so, yeah.

11 Q This is involving a fishing email  
12 that we discussed earlier --

13 A There's a lot on the e-mail.  
14 There's a bunch of different topics, so.

15 Q Well, apparently it was a exchange  
16 or conversation that Ms. Swenson and Dr.  
17 Kaye had. And Ms. Swenson felt, I guess,  
18 that Dr. Kaye used inappropriate language  
19 and, I guess, expressing or articulating her  
20 frustration with the lack of outcome. At  
21 that point of her inquiries about the  
22 fishing emails that she had suspected,  
23 right?

24 MS. CANFIELD: Objection to  
25 form. You can answer.

1 J. WANGEL

2 A I guess so, yeah.

3 Q And was this incident ever brought  
4 to your attention, Mr. Wangel?

5 MS. CANFIELD: Objection as to  
6 form. You can answer. That subject  
7 of the e-mail?

8 Q The content of the e-mail.  
9 Ms. Swenson's allegations of against Dr.  
10 Kaye. Did the contents of this e-mail and  
11 the allegations therein, were they ever  
12 brought to your attention Mr. Wangel?

13 A They could have been. I don't  
14 recall specifically. What's the timing of  
15 this?

16 Q This is May 31, 2019. Right?

17 A Just for context this is right  
18 around the time the last -- I stayed on with  
19 CHS for a number of months overlap. I was  
20 trying to transition at this point.

21 Q I have a question. At some point  
22 was your position ever kind of fluid or in  
23 flux?

24 MS. CANFIELD: Objection as to  
25 form. You can answer.

1 J. WANGEL

2 A Which position?

3 Q How you worked between the units  
4 and the management, was there ever a time  
5 where you just kind of like, even if had to  
6 give a title, you performed multiple  
7 functions because management, you know, took  
8 to you?

9 MS. CANFIELD: Objection as to  
10 form. You can answer, if you're  
11 able.

12 A I mean kind of hard to respond.  
13 You can only do what's in your purview as  
14 far as your specific role. I was  
15 responsible for a number of different areas.  
16 Like I said before time, payroll stuff --  
17 but after transitioned out, there's  
18 different roles. People come to you because  
19 they come for advice or direction. So labor  
20 does that, not just with regards to personal  
21 health but across the system. Some place to  
22 go to for help.

23 Q I'm going to draw your attention  
24 to another exhibit.

25 MS. CANFIELD: It just said my



1 J. WANGEL

2 internet is unreliable. I don't  
3 know what the issue is.

4 (Whereupon, a recess was taken  
5 from 3:06 p.m. to 3:17 p.m.)

6 Q I'm going to try to move on to  
7 another email, another exhibit. So I'm  
8 going t to move to Exhibit No. 24.

9 Now again, you maintain that the  
10 memos that Dr. Kaye received were not  
11 disciplinary in nature. Would you agree  
12 with that?

13 MS. CANFIELD: Objection as to  
14 form. You can answer.

15 A I'm sorry I was reconnecting. Say  
16 it again. I'm sorry.

17 Q You would agree that it's your  
18 position that the memos that Dr. Kaye  
19 received were not disciplinary in nature.  
20 I'm going to ask you, you said that the one  
21 audio regarding specifically was not  
22 disciplinary, right?

23 A You said memos.

24 Q Yes.

25 A We're talking about the memo from

1 J. WANGEL

2 Dr. Ford, right?

3 Q Right.

4 Dr. Kaye received two memos. One  
5 as it pertained to audio recording exams,  
6 and then Dr. Kaye received another memo as  
7 it pertained to unprofessional conduct.

8 Do you recall the second memo?

9 A I don't recall the second one  
10 offhand.

11 Q So I will show you that one. So,  
12 Mr. Wangel, by any chance have you seen --  
13 Exhibit 24 bears the Bates stamp series  
14 NYC\_2978.

15 Do you see that document, Mr.  
16 Wangel?

17 A I do.

18 (Whereupon, Memorandum  
19 (NYC\_2978) was marked as  
20 Plaintiff's Exhibit 24 for  
21 identification as of this date.)

22 Q Now, by any chance -- it's dated  
23 June 6, 2019, and the subject is  
24 unprofessional conduct and communication.  
25 You see that, right?

1 J. WANGEL

2 A I do.

3 Q And it talks about Ms. Swenson and  
4 the statement that Dr. Kaye allegedly made.  
5 Quote, "you have a job because of physicians  
6 like me", or words to that effect. And that  
7 she had disrupted the work space for  
8 approximately 40 minutes by speaking  
9 unprofessionally to Ms. Swenson in the work  
10 space.

11 Now, would you say this is  
12 actually disciplinary or would it be in the  
13 beginning of the spectrum of progressive  
14 discipline?

15 MS. CANFIELD: Objection.

16 Asked and answered. You can answer  
17 again.

18 A So with a EEO notice that's coming  
19 from a supervisor outside of labor relations  
20 --

21 Q Yes?

22 A -- it's not part of the formal  
23 disciplinary process. It's the counseling  
24 from a supervisor.

25 Q How come this doesn't say anything

1 J. WANGEL

2 about counseling in this e-mail?

3 MS. CANFIELD: Objection as to  
4 form. You can answer.

5 A I don't know I can't speak to the  
6 documents construction.

7 Q The last sentence of -- I'd like  
8 to ask about the last sentence. The last  
9 sentence says employees engage in  
10 unprofessional conduct or act contrary to  
11 NYC Health and Hospital policies and  
12 procedures may be subject to administrative  
13 action up to and including termination of  
14 employment.

15 Now, it's not quite clear as to  
16 whether or not this is just a warning or  
17 counseling memo, especially the last  
18 sentence is threatening termination should a  
19 further incident take place; would that be  
20 fair to say?

21 A The last sentence says, the  
22 employees who engage in unprofessional  
23 conduct may be subject to admin action up to  
24 and including termination of employment. I  
25 mean this is pretty nonspecific as far as

1 J. WANGEL

2 the who and what. It's just general -- I  
3 don't know who put this put together -- it  
4 is a document that came from a supervisor to  
5 a subordinate. It is not through labor  
6 relations. There's no due process hearing  
7 here, there's no notice of statement of  
8 process served, no hearing judgment or  
9 arbitrator or anybody. This is something  
10 from a supervisor to a subordinate in the  
11 regular course of business.

12 Q This is something that's been put  
13 in Dr. Kaye's personnel file, and this is  
14 something that she has to reference when she  
15 applies for medical licenses because it is  
16 in her personnel file.

17 So even though she may not have  
18 been subjected to a formal disciplinary  
19 process, would you agree this document is in  
20 her personnel file?

21 MS. CANFIELD: I'm gong to  
22 object to the earlier part where you  
23 testified that this is something  
24 that's reportable. But you can  
25 answer.

1 J. WANGEL

2 A I don't know whether or not it's  
3 reportable. I'm not sure what's in Dr.  
4 Kaye's personal file, so.

5 Q Would this memo go in her  
6 personnel file?

7 A You said would it go. Again, I  
8 don't know who's placing what in Dr. Kaye's  
9 personnel file. It's an outside thing.  
10 This had nothing to do with my file.

11 Q Dr. Kaye signs under protest as  
12 you see, right. Almost a full month later  
13 on July 1st, 2019. It's debatable that the  
14 meeting took place on June 6, or would all  
15 these people in attendance signed the same  
16 day as Dr. Ford, Mr. Muirjr and Dr. Kaye on  
17 July 1, 2019?

18 Would you agree that there seems  
19 to be a discrepancy between the dates of the  
20 memo and the dates of the signatures on the  
21 document?

22 MS. CANFIELD: Objection as to  
23 form. You can answer.

24 A I mean there's a date on the memo.  
25 There's a date, which I'm assuming is Dr.

1 J. WANGEL

2 Kaye's signature on the first line. Which  
3 she's saying on 7/1 she received and signed  
4 under protest. Then it looks like Dr. Ford  
5 and Mr. Muirjr on the same day. When you  
6 say it's a discrepancy, I don't know whether  
7 this is --

8 Q I'm sorry. The date of the memo  
9 says June 6, 2019, right? Are we in  
10 agreement on that?

11 A Yes, we are.

12 Q Then the date on the signatures on  
13 all three signatories says July 1, 2019.  
14 Are we in agreement on that?

15 A Yes.

16 Q I'd like to go to another exhibit,  
17 and this would be -- now, what will be  
18 marked as Plaintiff's Exhibit 25. 25 bears  
19 the Bates stamp series NYC\_2945. It starts  
20 with an e-mail from Dr. Ross MacDonald, he  
21 has a question regarding the recording of  
22 forensic exam, question mark. Right?

23 (Whereupon, Email (NYC\_2945) was  
24 marked as Plaintiff's Exhibit 25  
25 for identification as of this

1 J. WANGEL

2 date.)

3 Q And then he has an e-mail from  
4 Dr. Ford to Drs. Ross, Dr. MacDonald and you  
5 Mr. Wangel and the subject again is, did we  
6 complete the discipline. You see that  
7 right?

8 A Okay, sure.

9 Q Now again, we have these two  
10 professionals who have been engaged in  
11 various individuals at HHC referring to  
12 these incidents as discipline. You do see  
13 this, right?

14 MS. CANFIELD: Objection.

15 A I do.

16 THE WITNESS: Sorry.

17 Q So Dr. Ford says, note, Kaye was  
18 out on FMLA and leave until the time I  
19 clarified my role in this until yesterday.  
20 I am calling her today to schedule.  
21 Clarence and I are meeting with her.

22 This is on June 18, 2019, I would  
23 say about at least 13 days or so, two weeks  
24 before the signing of the documents that we  
25 referenced as Exhibit 24, right?



1 J. WANGEL

2 MS. CANFIELD: Objection.

3 A Before the signing?

4 Q Yes. I'm going to show you  
5 another document in this line of  
6 questioning. Mark this as Plaintiff's  
7 Exhibit 26.

8 (Whereupon, Email (NYC\_1521,  
9 1525) was marked as Plaintiff's  
10 Exhibit 26 for identification as  
11 of this date.)

12 Q Mr. Wangel, now we talked about  
13 this document somewhat. The audio recording  
14 730 competency evaluation. Now, Mr. Wangel  
15 did you participate in the drafting of this?

16 MS. CANFIELD: Please give the  
17 Bates Stamp number for the record.

18 MS. HAGAN: The Bates stamp  
19 series is NYC\_1521 and NYC\_1525.  
20 For the record NYC\_1525 on that page  
21 shows Mr. Wangel emailed Dr. Kaye.  
22 I guess it showed a read receipt  
23 that he actually obtained sign under  
24 protest document.

25 MS. CANFIELD: I'm sorry.

1 J. WANGEL

2 What are you saying that document  
3 represents.

4 MS. HAGAN: Represents that he  
5 received an amended signature of the  
6 written allegation. That's the  
7 subject of the e-mail says.

8 MS. CANFIELD: I didn't  
9 understand. You're kind of going  
10 out.

11 Q It says it's the amended signature  
12 of written allegations. Then we're going up  
13 to the subsequent document, which is the  
14 memo from Dr. Ford to Dr. Kaye. Do you  
15 remember this document, Mr. Wangel?

16 A As you're showing it to me, yes.

17 Q Did you have any part in authoring  
18 this document, Mr. Wangel?

19 A It's possible that I was  
20 consulted. I mean it's not uncommon.

21 Q Did you research any of the issues  
22 involved in the audio recording of forensic  
23 evaluations?

24 MS. CANFIELD: Objection.

25 Asked and answered. You can answer

1 J. WANGEL

2 again.

3 A I don't recall.

4 Q So you don't recall -- you don't  
5 recall you researched it all in your  
6 participation in the drafting of the  
7 document?

8 A I'm not certain that I did. I may  
9 have been consulted. Again, I don't recall.  
10 I'm not sure.

11 Q But you're not denying that you  
12 had a part in this at all?

13 MS. CANFIELD: Objection as to  
14 form. You can answer.

15 A Like I said, I honestly don't  
16 recall. I don't know.

17 Q Now, at any point did Dr. Kaye ask  
18 you or approach you about reasonable  
19 accommodations?

20 A I believe I testified earlier when  
21 we had the discussion about the 30-minute  
22 meal time. I think it was we talked about  
23 FMLA accommodation, but anytime issue to  
24 have accommodation or anything to that  
25 effect comes up, it's not in my purview to

1 J. WANGEL

2 accommodate.

3 Q But I'm just asking you -- I  
4 understand what your position is. I'm  
5 asking you if she approached you about  
6 reasonable accommodations regarding her  
7 workday. Did she, yes or no?

8 A It's possible. I don't recall  
9 specifics, but it's possible.

10 Q You say you don't recall  
11 specifics, but then one year after, did you  
12 ever been tell anyone that they were not to  
13 deal with this because filed an EEOC charge?

14 A I'm sorry. You lost me.

15 Q Did you tell staff that you could  
16 not deal with because she had filed an EEOC  
17 charge?

18 A Couldn't deal with what?

19 Q I guess Dr. Kaye and her  
20 reasonable accommodation?

21 A Certainly not. And request for  
22 accommodation are handled outside of  
23 Correctional Health which is central office  
24 at the time -- handled -- CHS.

25 Q So you're saying you would never

1 J. WANGEL

2 say that to anyone?

3 A You're asking me?

4 Q Yes.

5 A Yes, absolutely.

6 Q I'm going to show you what's been  
7 marked as Plaintiff's Exhibit 27.

8 (Whereupon, Email (NYC\_755 -  
9 756) was marked as Plaintiff's  
10 Exhibit 27 for identification as  
11 of this date.)

12 Q And Plaintiff's Exhibit 27 bears  
13 the date stamp series NYC\_755 and NYC\_756.

14 I'm going to start at the  
15 beginning of the thread. It starts with an  
16 e-mail from Dr. Kaye to Ms. Villanueva, and  
17 you're CC'd on this Mr. Wangel, you see  
18 that? And is Dr. Yang, Ford. You see this,  
19 right?

20 A I do.

21 Q And it's dated October 25, right?

22 A It is.

23 Q And Dr. Kaye talks about being a  
24 dedicated public servant for 19 years, the  
25 medical director since 2004. And she says,

1 J. WANGEL

2 she worked an eight and a half hour shift  
3 with a 30-minute unpaid lunch for over 13  
4 years. She's asking for a reasonable  
5 accommodation to return to her prior shift,  
6 split shifts or the ability to work  
7 remotely. She talks about the past  
8 practice. You see this, right?

9 You need more time to read it.

10 A I see it. I'll let you know if I  
11 need more time.

12 Q So then -- are you done?

13 A Go ahead.

14 Q And so then Kevin Marrazzo, the  
15 EEO officer, you reach out to him, right?  
16 I'm not sure if you reach out, but you  
17 reference him. You say Mr. Marrazzo is the  
18 EEO officer assigned to Correctional Health  
19 Services. Please reach out to him directly  
20 and he will explain the procedure to request  
21 reasonable accommodation. So you refer to  
22 him initially, right? But then you write at  
23 the top back to Ms. Villanueva without any  
24 party CC'd. Just FYI CHS has been in  
25 communication with legal affairs Blanche

1 J. WANGEL

2 regarding this employee pending EEOC matter.

3 Now, Mr. Wangel, why did you feel  
4 did the need to tell Ms. Villanueva that  
5 there was a pending EEOC matter pending?

6 A I don't recall.

7 Q Do you think that this was helpful  
8 or even appropriate?

9 A I'm not sure how I can answer  
10 that.

11 Q I mean you wrote this, Mr. Wangel.  
12 I mean, what were you thinking?

13 MS. CANFIELD: Objection.

14 Asked and answer, you can answer  
15 again.

16 Q I'm asking what went through your  
17 mind when you wrote this?

18 A I honestly don't recall this.  
19 It's three years ago.

20 Q But you're saying, hey, there's a  
21 pending EEOC matter even though Dr. Kaye is  
22 asking for reasonable accommodations; what  
23 does one have to do with the other?

24 A Which two things?

25 Q The pending EEOC charge and Dr.

1 J. WANGEL

2 Kaye's request for accommodation?

3 MS. CANFIELD: Objection. I  
4 don't think he testified to that.

5 A --

6 Q Sorry. Why did you feel the need  
7 to tell Ms. Villanueva there's a pending  
8 EEOC matter?

9 A Yeah. I don't recall.

10 Q And you have no further  
11 explanation as to that, as to why you did  
12 that?

13 A I don't.

14 Q I'm going to direct your attention  
15 to what's going to be marked as Plaintiff's  
16 Exhibit 28.

17 (Whereupon, Email (NYC\_757 -  
18 758) was marked as Plaintiff's  
19 Exhibit 28 for identification as  
20 of this date.)

21 Q Bears the Bates stamp series  
22 NYC\_757 and 758.

23 Now, again you see Dr. Kaye's  
24 email request for an accommodation, as we  
25 went over. And we see your email. Now,



1 J. WANGEL

2 you're referring to Dr. Kaye to  
3 Mr. Marrazzo, right. It says, please reach  
4 out to him directly and he will explain the  
5 procedure to request the accommodation.

6 Now, at any point did you contact  
7 Mr. Marrazzo and tell him there was a  
8 pending EEOC charge that pertained to Dr.  
9 Kaye?

10 A I don't believe so.

11 Q Did you contact anyone else  
12 outside of Ms. Villanueva about Dr. Kaye's  
13 pending EEOC charge?

14 A I don't believe so, no.

15 Q But you just felt compelled to  
16 tell Ms. Villanueva, that was the only  
17 person, right?

18 MS. CANFIELD: Objection as to  
19 form. You can answer.

20 A I believe I already testified to  
21 that.

22 Q Was Dr. Kaye reasonable  
23 accommodations ever granted?

24 MS. CANFIELD: Objection.

25 A I don't know.

1 J. WANGEL

2 Q So now Ms. Laboy says to you, can  
3 you remove PY from the responses. Have you  
4 ever been told this?

5 A Yeah, I have.

6 Q Why? Why have you been told this?

7 A In plenty of instances there a  
8 member of leadership doesn't want to be  
9 copied on a whole set of exchanges that they  
10 don't need to be involved in, and ask to be  
11 taken off the exchange.

12 Q Ms. Yang as a senior officer of  
13 CHS has a duty to address instances of  
14 discrimination and other allegations of  
15 improper conduct in her capacity. Why  
16 should she be removed from these emails?

17 MS. CANFIELD: Objection as to  
18 form. You can answer.

19 A This is a string about a request  
20 for accommodation. Everybody request  
21 accommodation copies Dr. Yang -- she emails  
22 about this. (inaudible)

23 Q Dr. Kaye has had a number of  
24 issues; am I right?

25 MS. CANFIELD: Objection as to

1 J. WANGEL

2 the form. You can answer.

3 A That's what you're saying.

4 Q I'm asking you. We've been --

5 A We've been talking about this for  
6 six hours now.

7 Q Exactly, exactly. So it would  
8 stand to reason that Dr. Kaye, seeing that  
9 she's not getting any traction, would be  
10 concerned about any further endeavors and  
11 she would go to the most senior person in  
12 her program in order to see change; would  
13 you agree?

14 MS. CANFIELD: Objection. You  
15 can answer.

16 A Yeah. Nothing Dr. Kaye in writing  
17 to Dr. Yang directly if she's not on an  
18 e-mail. Dr. Kaye is more than welcome to  
19 put her in there.

20 Q Nonetheless she writes these  
21 things and, I guess, you're told to remove  
22 her, remove Dr. Yang from these emails. Has  
23 Dr. Yang ever told you, I don't want any  
24 more emails from Dr. Kaye?

25 MS. CANFIELD: Objection. You

1 J. WANGEL

2 can answer.

3 A Not that I recall.

4 Q Now, we also talk about Dr. Kaye's  
5 pursuit of FMLA. Do you recall that?

6 A Somewhat.

7 Q What do you recall of Dr. Kaye's  
8 attempt of FMLA?

9 A Our discussion or Dr. Kaye's  
10 attempts?

11 Q What discussion?

12 A You're talking about what we  
13 discussed today on this deposition or  
14 outside of that?

15 Q At the time. At the time.

16 A I mean again, all I recall is that  
17 an issue came to my attention about FMLA. I  
18 would have directed it to the appropriate  
19 folks. I don't get involved in FMLA.

20 Q So you don't get involved at all?

21 A I mean a request may come to me.  
22 Somebody may ask me for the information.  
23 It's not in the purview of labor to make  
24 that decision about whether or not somebody  
25 is eligible for FMLA.

1 J. WANGEL

2 Q I'm going to draw your attention  
3 what's going to be marked as Plaintiff's  
4 Exhibit 29. Plaintiff's Exhibit 29 bears  
5 the Bates Stamp NYC\_1114.

6 (Whereupon, Email (NYC\_1114) was  
7 marked as Plaintiff's Exhibit 29  
8 for identification as of this  
9 date.)

10 Q It's dealing with Dr. Kaye's  
11 request for her prior shift to be restored.  
12 You see that right?

13 A (No verbal response given.)

14 Q Now, Dr. Kaye says: Dear, Drs.  
15 Jain and Ford, thank you for your well  
16 wishes. My family and I mourn my brother's  
17 untimely death. He meant a lot to all of us  
18 and it will definitely take time. With that  
19 said, I may need additional time to  
20 readjust, as you know me and my children  
21 have been struggling with my current shift.  
22 As I'm sure you can imagine things are more  
23 difficult for my family and I now.  
24 Especially since my children were extremely  
25 close to their uncle. So she goes on,

1 J. WANGEL

2 right. And she says, if possible I ask that  
3 you and the agency restore me back to my old  
4 shift. My son has always needed me to work  
5 the prior shift so that I can assist him  
6 with his medical treatment, but since his  
7 ailments have been further aggravated, I  
8 need to be there for him now even more. You  
9 see this, right?

10 A I do.

11 Q Then you respond to Dr. Jain and  
12 Ford and Yang, please don't respond. This  
13 will be treated as a request for  
14 intermittent FMLA. I'll be in touch  
15 shortly. You see this, right?

16 A I do.

17 Q You just testified that you didn't  
18 really deal with FMLA, didn't you?

19 A That wasn't my testimony.

20 Q So what is it? How are you --

21 A I said I don't make the decision  
22 to determine whether or not FMLA is approved  
23 or not.

24 Q How did you make the determination  
25 this request by Dr. Kaye to return to her

1 J. WANGEL

2 prior schedule was a request for  
3 intermittent FMLA leave?

4 A Based on Dr. Kaye's e-mail.

5 Q She doesn't FMLA at all?

6 A The circumstances mentioned in the  
7 her e-mail seemed appropriate for  
8 intermittent FMLA request.

9 Q You're making a determination,  
10 one, that it is appropriate for FMLA, but  
11 then you say you don't deal with FMLA. You  
12 tell them not to respond. You tell your  
13 superiors and then Dr. Kaye's not to respond  
14 to that. You see this, right?

15 MS. CANFIELD: Objection. You  
16 can answer.

17 A I do see it, yes.

18 Q Dr. Kaye also raises a number of  
19 whistleblowing issues in her complaint. Are  
20 you aware of those allegations?

21 A Somewhat. I don't recall the  
22 specifics, no.

23 Q At some point, Mr. Wangel, didn't  
24 you give permission to access Dr. Kaye's  
25 mailbox, e-mail box?

1 J. WANGEL

2 MS. CANFIELD: Objection. You  
3 can answer.

4 A Did I give permission, is that  
5 what you're asking?

6 Q Didn't you obtain permission to  
7 access Dr. Kaye's e-mail box and to monitor  
8 her emails?

9 MS. CANFIELD: Objection.

10 A I believe at one point I did have  
11 access. I wouldn't phrase it as monitoring  
12 her emails.

13 Q What would you phrase it as?

14 A Investigator access. It's typical  
15 that labor engage in investigation.

16 Q Has labor investigated any of the  
17 other center directors in this fashion?

18 A I'm not sure I could respond.

19 Q Yes or no. Let's go down the  
20 list.

21 A All I can say if a similar  
22 allegation arose, it would be the same  
23 action.

24 Q What allegation arose against Dr.  
25 Kaye?



1 J. WANGEL

2 A If I recall the reasons for the  
3 investigation were the potential that the  
4 sensitive information was sent outside of --

5 Q What kind of sensitive  
6 information?

7 A Information that was still  
8 confidential and should have remained  
9 confidential and not sent outside of the  
10 workstation.

11 Q What information are you  
12 referencing?

13 A I don't recall specifically.

14 Q So who told you to, one, monitor  
15 Dr. Kaye's emails?

16 MS. CANFIELD: Objection as to  
17 form. You can answer.

18 A Again, you keep saying monitor. I  
19 assume watching the e-mail trend. That's  
20 not what happened.

21 Q So what happened?

22 A It's an investigation to see  
23 whether or not information was sent out.

24 Q What was the outcome of the  
25 investigation?

1 J. WANGEL

2 A I don't recall the specifics. I  
3 mean this is typical in labor, right.  
4 There's hundreds of cases, if not thousands,  
5 of grievances happening at a time. It's  
6 very hard to remember especially this long  
7 ago. If I recall correctly, I think there  
8 was -- I can't even speak.

9 Q Okay. Mr. Wangel, did there ever  
10 come a time that Dr. Kaye basically  
11 criticized a private practice policy that  
12 you put in place?

13 A A private practice policy.

14 MS. CANFIELD: Can you put an  
15 objection before that question.

16 Q Now, Mr. Wangel, did you ever  
17 participate in a drafting of a private  
18 practice policy?

19 A It's possible.

20 Q Did it ever come to your attention  
21 that Dr. Kaye had issues or felt that there  
22 were ethical issues that were raised by this  
23 private practice policy that you penned  
24 along with others?

25 A Again, it's very much remember the

1 J. WANGEL

2 specifics. If you refresh my memory, I'm  
3 more than happy to --

4 Q Well, Dr. Kaye alleges that she  
5 raised issues about the potential of double  
6 dipping specifically and the conflict of  
7 interest and that she experienced  
8 retaliation in weight of those complaint.  
9 Do you recall that?

10 MS. CANFIELD: Object based on  
11 form.

12 A I remember Dr. Kaye raising a  
13 concern about the 730 process in general.  
14 And my role as a labor relations was not one  
15 of whether or not 730 exams are conducted  
16 appropriately or inappropriately. Again, I  
17 said I'm not the expert on the process, so  
18 it's hard to recall the specifics there.

19 Q Well, Dr. Kaye raised issues in  
20 several context. One, that involved with  
21 the potential double dipping as it was  
22 contained in the private policy that was  
23 being circulated within CHS. Then she also  
24 raised some concerns about the --

25 MS. CANFIELD: Objection.

1 J. WANGEL

2 Are you testifying?

3 MS. HAGAN: No, I'm asking.

4 I'm trying to ask Mr. Wangel if he  
5 is familiar or remembers the  
6 instances where Dr. Kaye raised  
7 issues with some of the initiatives  
8 and policies that were raised on  
9 under the CHS. So far Mr. Wangel  
10 may have participated in the  
11 drafting of it. He's not quite sure  
12 if Dr. Kaye raised issues about  
13 that, about specifics instances. So  
14 I'm trying to give him context. I'm  
15 trying to get down to the nuts and  
16 bolts of this.

17 MS. CANFIELD: He didn't  
18 testify to any of that.

19 MS. HAGAN: Okay. So let's  
20 keep going.

21 Q So, Mr. Wangel, you said you  
22 participated in the drafting of the private  
23 practice policy; is that right?

24 MS. CANFIELD: Objection.

25 A No. I did not say that.

1 J. WANGEL

2 Q Did you have any part in drafting  
3 the private practice policy?

4 A I believe I said I may have, but I  
5 don't recall.

6 Q Oh, you don't recall. Did you  
7 participate in the drafting of any other  
8 policies that came out of CHS?

9 A Sure. Yes.

10 Q I'm going to show you what's  
11 marked as Plaintiff's Exhibit 30. I'm going  
12 to -- Exhibit 30 bears the Bates Stamp  
13 series NYC\_2192, 2193, 2194, 2195 and 2196,  
14 2197, and what appears to be 2198.

15 (Whereupon, Email  
16 (NYC\_2192-2198) was marked as  
17 Plaintiff's Exhibit 30 for  
18 identification as of this date.)

19 For purposes of giving you the  
20 opportunity to refresh your recollection,  
21 I'm going to prior email thread. It appears  
22 that a Jeffrey Herrera is e-mailing a  
23 Jeffrey Lutz and you Jonathan Wangel and  
24 CC'ing Ms. Laboy. Subject: Email Access to  
25 Active Employee.

1 J. WANGEL

2 Do you see that right?

3 A I do.

4 Q Is there a reason why Dr. Kaye's  
5 not specifically referenced in the subject  
6 of the email? I mean it is her email. Is  
7 there a reason why this clandestine  
8 referring to, I guess, this investigation  
9 that took place?

10 MS. CANFIELD: Objection as to  
11 form. You can answer.

12 A You're asking me why Dr. Kaye's  
13 name isn't mentioned in the subject line of  
14 the e-mail?

15 Q Yes.

16 A I have no idea why Jeff Herrera  
17 wouldn't put an employee's name in the  
18 subject of his e-mail.

19 Q Let's start, who is Jeff Herrera?

20 A He worked at the time in  
21 Correctional Health Department.

22 Q What was his title?

23 A He was the director or senior  
24 director.

25 Q Of what, IT?

1 J. WANGEL

2 A Correct. Yeah, some IT. I'm not  
3 sure if it's director or senior director,  
4 but some IT title.

5 Q Let's go to Mr. Lutz, who is he?

6 A He is the Correctional Health and  
7 Hospitals EITS, which is also It, commonly  
8 known as. He works in the central corporate  
9 office.

10 Q Then let's go to, well, we know  
11 who Ms. Laboy is, right? She's requesting,  
12 Ms. Laboy is requesting that you be provided  
13 access to the mailbox of active employee  
14 Melissa Kaye; you see that right?

15 A Yes.

16 Q Has Ms. Laboy ever asked for you  
17 to have access any of the other forensic  
18 psychiatric evaluators mailboxes?

19 MS. CANFIELD: Objection as to  
20 form. You can answer.

21 A I don't believe so.

22 Q So Dr. Kaye was the only one,  
23 right?

24 A As far as I remember.

25 Q So then Mr. Lutz says, approved.

1 J. WANGEL

2 Joe, please work with Jonathan on this. I  
3 don't know who is Joe. Joe is Jeffrey  
4 Herrera?

5 A No. Joe is, Joe Moore.

6 Q And who is Mr. Moore?

7 A He also works for central office  
8 IT.

9 Q So then you go up to Mr. Moore he  
10 says, Jonathan you know the drill. I need  
11 the date range and search terms and I will  
12 set you up in Clearwell. You see that?

13 A Yes.

14 Q Have you done this before?

15 A I believe I testified to that.  
16 It's common. It's part of labor relations  
17 investigations. It's not uncommon to search  
18 employee e-mail.

19 Q Had you investigated Dr. Kaye's  
20 e-mail before?

21 A I don't believe so, no.

22 Q And you're saying that -- and then  
23 you say, you ask for a specific date range,  
24 July 1st through present outbound e-mail to  
25 external recipients. Focus on legal aid



1 J. WANGEL

2 society and personal e-mail address all or  
3 part of the phrase FPECC policy  
4 psychological testing, and thank you with an  
5 exclamation point. Right?

6 A You're asking if I see it?

7 Q Yeah.

8 A Yeah, I see it.

9 Q Thanks. And then we go up and it  
10 looks like Mr. Moore kinds of gives you a  
11 report, right. It says this is complete  
12 previous collection was 460 messages. The  
13 recollect date added 101 messages. So there  
14 must have been a previous collection.

15 What is he referencing Mr. Wangel?  
16 Was there another investigation of Dr.  
17 Kaye's mailbox?

18 MS. CANFIELD: Objection as to  
19 form. You can answer.

20 A My request to the previous email  
21 where I say thank you -- because Joe, the  
22 guy in IT, actually has to do this, joe  
23 Moore. It's not a quick or easy task that  
24 he has to do. So that's why he goes through  
25 a lot of emails relating to certain

1 J. WANGEL

2 investigations.

3 So with regards to this, the  
4 collection process, it doesn't just happen  
5 immediately. Again, I don't work for IT,  
6 but it's not just a point in time. It's  
7 referencing to do that's because you can  
8 have a person, a series of e-mails and then  
9 a reply, and then a third and fourth and  
10 fifth. He's not going to produce seven  
11 emails for me -- so all the previous emails  
12 are just rolled up into the one, so you get  
13 them all in a single thing.

14 Q I'm aware of the process, but I  
15 think you may differ on what it takes or  
16 what entails. But I appreciate that  
17 Clearwell is very sophisticated program.  
18 But I'm sure that Mr. Moore has other things  
19 he's working on so -- I mean perhaps there's  
20 an issue, but I don't believe -- I know it  
21 doesn't Clearwell very long to engage in  
22 type of process, but we won't go there  
23 today.

24 Now, in the paragraph I'm focusing  
25 on it appears that Mr. Laboy found that Dr.

1 J. WANGEL

2 Kaye sent a total of 87 documents, 120 items  
3 through her personal Gmail address in  
4 violation of the acceptable use policy,  
5 section nine. Usually by BCC'ing her  
6 personal email address and at least one  
7 which contained patient information, copied  
8 to folder, Patient. I did not review all  
9 87. I picked a couple at random to see what  
10 method she was using to send e-mails to her  
11 personal account.

12 Now, Mr. Wangel, if, in fact, Dr.  
13 Kaye had a breach of policy on this level,  
14 why wasn't she brought up on any charges or  
15 talked to?

16 A I mean I don't recall the  
17 specifics of that incident. I'd have to  
18 refresh my memory of what occurred in this  
19 email from IT. I mean a lot goes into a  
20 decision whether or not the charges should  
21 be brought against a staff member.

22 Q I'm going to ask you something.  
23 Did you talk to Dr. Kaye about her usage or  
24 her activities with the e-mail?

25 A I don't recall if me or anybody in

1 J. WANGEL

2 my office did.

3 Q Did you tell -- let's go through  
4 each of the defendants. Did you tell Dr.  
5 Yang that Dr. Kaye was doing this?

6 A I don't recall specifically. I  
7 may have had a conversation with Dr. Yang  
8 specifically about this. It's possible.

9 Q Did you tell Dr. Ford that Dr.  
10 Kaye was engaged in this activity?

11 A Again, possible, but I don't  
12 recall any specific conversations.

13 Q I'm going to ask, did you tell  
14 Dr. Jain?

15 A Same answer.

16 Q Are you sure -- you keep referring  
17 to the individuals as patients versus the  
18 inmates. I'm going to ask you from your  
19 training and from your knowledge of what  
20 CHS', the various services that CHS  
21 provides, Dr. Kaye was not treating any  
22 patients. She wasn't treating anybody. She  
23 was evaluating inmates. So what exactly,  
24 what kind of information did she actually,  
25 was actually found to be inappropriate?

1 J. WANGEL

2 MS. CANFIELD: Objection as to  
3 form. This e-mail is not from the  
4 witness. It's from Joe Moore, but  
5 you can answer.

6 MS. HAGAN: I'm assuming that  
7 Mr. Wangel read the report.

8 Q Did you read the report, Mr.  
9 Wangel?

10 A I'm sure I did. So again, to  
11 address the patient issue you raised, it is  
12 Correctional Health Services and even if Dr.  
13 Kaye is not the treating physician, the  
14 person under evaluation is a patient of  
15 Correctional Health. And across the board,  
16 we do not refer to incarcerated persons as  
17 inmates. They are patients.

18 Q None of the people she encounter  
19 are her patients. They are not her  
20 patients.

21 A I am not saying that they're Dr.  
22 Kaye's patients. Am I?

23 Q In fact, when Dr. Kaye engages  
24 these inmates, they are handcuffed and they  
25 are in custody. They are not --

1 J. WANGEL

2 A Correct. Right. And the DOC is  
3 responsible for their custody and control  
4 and remain in their custody, Correctional  
5 Health is charged with care. And for a  
6 number of reasons, including mental health  
7 reasons, they are referred to as patients,  
8 not inmates.

9 Q She's not engaging in a mental  
10 health capacity. She's accepting --

11 A I am not saying she is.

12 MS. CANFIELD: Okay.

13 We're going to move forward  
14 upwards. Again, says he already has case  
15 opened on Dr. Kaye and collected her e-mail  
16 from October 15, 2018 to October 7, 2018.  
17 Per our discussion, I will collect all new  
18 e-mail from December 7, 2018, until today  
19 and will merge it into the old collection  
20 and have it ready for you by Monday.

21 Now, you said you had not had more  
22 than one of these, I guess, investigations  
23 of Dr. Kaye's email. Would you like to  
24 change your testimony to that effect?

25 A I believe I said I didn't recall.

1 J. WANGEL

2 Based on Joes's e-mail of 10/15/18, 12/7/18.

3 Q In a subsequent e-mail you asked  
4 for access for to the e-mail box for July 1  
5 onward and I'm assuming it's for  
6 July 1st, 2019. Let's go back down, if  
7 necessary.

8 A Again, it's hard to remember the  
9 specifics of any one investigation, but this  
10 type of thing is common. There are tons of  
11 things happening at any given time so  
12 remembering the specifics about this  
13 particular one is not easy.

14 Q Do you know the outcome of this  
15 investigation? This is a lot of effort for  
16 you not to remember what happened.

17 A It's really not. Again, this is  
18 common. There's nothing super --

19 Q Well, you talk about it being a  
20 lot of effort for Mr. Moore, but you're  
21 saying it was not a lot of effort for you  
22 either.

23 A It's in the report.

24 Q So you go and having Mr. Moore  
25 practice is exercised and then you reading

1 J. WANGEL

2 this, you don't --

3 A I can tell you that my office has  
4 never drafted disciplinary charges against  
5 Dr. Kaye. We have never taken disciplinary  
6 actions against Dr. Kaye in Labor Relations.

7 Q So then I'm going to show you  
8 what's marked as Plaintiff's Exhibit 31.

9 (Whereupon, Email (NYC\_1134) was  
10 marked as Plaintiff's Exhibit 31  
11 for identification as of this  
12 date.)

13 Q It bears the Bates stamp series  
14 NYC\_1134. It's from you, Mr. Wangel, to Dr.  
15 Ford. And it starts the beginning of the  
16 e-mail is from Dr. Jain to Dr. Ford. And  
17 they are discussing the distribution of the  
18 psychological testing policy.

19 Do you see that?

20 A I see the subject line. I haven't  
21 read the whole policy.

22 Q I'll let you read it.

23 What's important to me for our  
24 discussion is that Dr. Jain says, it was  
25 also brought to my attention today that



1 J. WANGEL

2 either this policy or the discussion of this  
3 policy was being circulated among the legal  
4 aid attorneys citywide and they were  
5 concerned.

6 Now, did you tell Dr. Jain that  
7 Dr. Kaye had been circulating the  
8 psychological testing policy?

9 A I don't recall specifically having  
10 that discussion with her.

11 Q So then Dr. Ford says to Dr. Jain:  
12 Hi, Beesh, there is something to do if you  
13 know information that the policy is being  
14 circulated to legal aid attorneys, including  
15 Jonathan for guidance. Right? You see  
16 this?

17 A I do.

18 Q And then you say, do we know for  
19 sure that Dr. Kaye circulated the draft  
20 externally. Right?

21 A That's what the e-mail says.

22 Q Then you follow up, you say,  
23 please forward me the draft. Right?

24 A Right.

25 Q Now, does it ever come to your

1 J. WANGEL

2 attention -- do you ever find that Dr. Kaye  
3 ever distributed this policy?

4 A As a result of the IT  
5 investigation -- I'm trying to. I honestly  
6 don't recall. I don't remember if there was  
7 an outbound draft policy that went --

8 MS. HAGAN: To the extent it  
9 exist, if there was any kind of like  
10 documentation or emails to reflect  
11 that to determine that Dr. Kaye had  
12 actually distributed the policy of  
13 any other that pertains to CHS, I  
14 call for the production of any and  
15 all correspondence to that effect.  
16 And I'll put it in writing and I'm  
17 sure that counsel will take it under  
18 advisement.

19 Q Now, Mr. Wangel, by any chance was  
20 there any chance that you had any -- with  
21 Dr. Kaye and the usage of redacted records?

22 A Not that I recall.

23 Q Did you provide any guidance or  
24 advice pertaining to that?

25 A I'm not even sure exactly -- with

1 J. WANGEL

2 regard to redacted records.

3 Q Talking about redacted medical  
4 records to do 730 evaluations. Did you  
5 provide any guidance or work with the legal  
6 department to engage to analysis with the  
7 court?

8 A I don't recall.

9 Q Did you ever work with Blanche  
10 Greenfield or anyone else in the legal  
11 department to develop any kind of like  
12 strategy as to how you would approach the  
13 court about the usage of redacted or  
14 unredacted records?

15 A It's possible. I deal with all  
16 sorts of issues.

17 Q Would you have been roped in this  
18 then you too?

19 A I could have been.

20 Q Why is this, Mr. Wangel?

21 A I don't know. I can't say.

22 Q Your background isn't in criminal  
23 law, is it?

24 A No. Not specifically. I have no  
25 such degree.

1 J. WANGEL

2 Q You have a criminal justice  
3 degree, but you have not been in court and  
4 litigated in criminal matters; am I right?

5 A That's correct.

6 Q And you have never attending or  
7 dealt with any 730 matters; is that right?

8 A Right.

9 Q I assume that you read the  
10 statute, the 730 statute; am I right?

11 A I don't recall, but that's  
12 probably a fair --

13 Q Yeah. You probably done some  
14 reading on it, but you wouldn't say that  
15 this is your area of expertise. Right?

16 A The area of 730 exams, yes, that's  
17 right.

18 Q Right. But you are providing  
19 legal advice or guidance on usage of  
20 redacted or unredacted medical records; am I  
21 right?

22 MS. CANFIELD: Objection. He  
23 didn't testify to that. You can  
24 answer.

25 A I'm not sure what you're referring

1 J. WANGEL

2 to exactly. That, I don't recall any  
3 specifics on that.

4 Q Well, I want to ask you some  
5 questions about your involvement in the use  
6 of redacted medical -- of I guess.

7 COURT REPORTER: You just got  
8 cut off.

9 (A discussion was held off the record.)

10 Q So at this point you're not  
11 necessarily versed in, I guess, the 730 exam  
12 process, per se. But you did have input in  
13 the discussion of whether or not the medical  
14 records would be an appropriate way to  
15 pursue or to engage in 730 examinations.

16 Do you recall that?

17 A No. I would have to be refreshed.

18 Q I have a question. Are you aware  
19 that the court clinics are exempt?

20 MS. CANFIELD: Objection. You  
21 can answer.

22 A You froze for a second. I didn't  
23 hear what you said.

24 Q Are you aware the court clinics  
25 are HIPPA exempt?

1 J. WANGEL

2 A I believe that's correct.

3 Q I guess the question I would have  
4 and to be honest with you to kind of  
5 understand the role of CHS, what is your  
6 understanding of the role of CHS as far as  
7 the 730 exam process is concerned beyond the  
8 evaluators as far as, I guess, whether or  
9 not they release medical records?

10 MS. CANFIELD: Objection to  
11 form. You can answer.

12 A Again, I'm not familiar with that  
13 as far as --

14 Q I'm going to leave that and come  
15 back.

16 Are you aware of any questions  
17 surrounding the rollout and the  
18 implementation of iSight?

19 A The implementation rollout of...

20 Q iSight. You're aware of Isight,  
21 right?

22 A I remember the acronym. I forget  
23 exactly what function it performs though.

24 Q So you're not really sure of what  
25 function Isight actually --

1 J. WANGEL

2 A At this point I don't recall at  
3 this point in time. I may have then. But  
4 again this is years later.

5 Q I'm going to show what will be  
6 marked as Plaintiff's Exhibit 32. In  
7 Plaintiff's Exhibit 32 bears the Bates stamp  
8 series NYC\_668.

9 (Whereupon, Email (NYC\_668) was  
10 marked as Plaintiff's Exhibit 32  
11 for identification as of this  
12 date.)

13 Q And it starts with an e-mail from  
14 Mr. Muirjr to you, Mr. Wangen, on  
15 October 5, 2018. And it says: Good  
16 morning. Ms. Swenson and I placed a call to  
17 Dr. Kaye this morning at 9:30 a.m. and left  
18 a message for her to call us back. She  
19 called back at 10:00 a.m. and inquired why  
20 she didn't not want to work alone with  
21 Dr. Jain. But that's not what I have of  
22 interest here.

23 She also mentioned that someone  
24 had brought up her FPECC's site lack of  
25 cases in iSight, but that they have 42 cases

1 J. WANGEL

2 that were just ordered prior to their  
3 training on the system. They are working to  
4 ensure that all cases are entered .

5 Now, Mr. Wangel, it seems like, is  
6 this related to labor relations?

7 A I can't speak to why Mr. Muirjr  
8 would --

9 Q Did you respond to this, Mr.  
10 Wangel?

11 A I don't recall.

12 Q So you don't recall if you  
13 responded to this particular e-mail or not,  
14 or if you had any further dealings with  
15 iSight or how it's being rolled out in the  
16 Bronx.

17 A No. I don't recall from the sense  
18 of the e-mail it looks like an issue about  
19 how to receive the cases in a timely way. I  
20 remember there were all types of issue about  
21 having the cases in a timely manner. Other  
22 than to that extent, I don't recall.

23 Q So now I'm going to go what's  
24 marked as Exhibit 33.

25 (Whereupon, Email (NYC\_2654) was



1 J. WANGEL  
2 marked as Plaintiff's Exhibit 33  
3 for identification as of this  
4 date.)

5 Q This is an e-mail from Dr. Ford  
6 to -- first off, Exhibit 33 bears the Bates  
7 stamp series NYC\_2654. Right? This will be  
8 Exhibit 33 and it is from Dr. Ford to Dr.  
9 Wangel, you see that, and it's dated  
10 March 18, 2019. You see this, right?

11 A I do.

12 Q Dr. Ford basically is opining  
13 about Dr. Kaye's percentage of productivity  
14 being the same as other directors and she  
15 talks about the volume of case. Then in the  
16 previous e-mail, as we discussed, there  
17 seems to be an issue with the information  
18 being inputted into iSight.

19 Now, the question I have, Mr.  
20 Wangel, is why is Dr. Ford talking to you  
21 about Dr. Kaye's productivity?

22 A I don't know. Maybe she raised  
23 some concerns about the level of  
24 productivity. I don't recall. That's one  
25 of the typical, most common reasons you

1 J. WANGEL

2 would consult somebody over in labor  
3 relations is --

4 Q Have you ever spoken to Dr. Kaye  
5 about her productivity?

6 A It wouldn't be my place to do so.

7 Q How would you engage Dr. Kaye in  
8 your day-to-day?

9 MS. CANFIELD: Objection.

10 A I wouldn't.

11 Q I mean typically labor relations  
12 would be involved if there's a violation of  
13 health department agreement; is that right?

14 A Even for some exhibits you've  
15 shown me today. I mean staff reached out  
16 directly on their own volition. I mean you  
17 see notes from Dr. Kaye directed to me  
18 without being prompted. I do get some  
19 questions and concerns from staff on the  
20 regular. If there's a disciplinary matter,  
21 it would go through the process. As I said,  
22 no charges were drafted against Dr. Kaye.

23 MS. HAGAN: How much time do I  
24 have left, Ms. Miller?

25

1 J. WANGEL

2 COURT REPORTER: We're at five  
3 and a half hours.

4 MS. HAGAN: Thank you.

5 Q I want to ask you some questions  
6 about Dr. Kaye being docked educational  
7 leave. Do you recall any discussions about  
8 that?

9 A Supervisory -- the subject, yes.

10 Q Okay. What do you recall?

11 A I recall that Dr. Kaye had  
12 attended some sort of certification or exam.  
13 I can't remember specifically what it was  
14 for or what the subject was. I remember  
15 that topic or the subject of that exam or  
16 certification, whatever it was, wasn't  
17 directly on point with what she does for  
18 Correctional Health system as a whole. And  
19 a question came up as to whether or not time  
20 for something that's not directly work  
21 related should be excused or not.

22 Q Now, Dr. Kaye alleges that she was  
23 docked pay in retaliation for her protected  
24 activities, meaning she was docked pay  
25 because she had filed complaints of

1 J. WANGEL

2 discrimination and that she engaged in -- do  
3 you take a different position on that,  
4 Mr. Wangel?

5 MS. CANFIELD: Objection.

6 A I do.

7 Q What's your position?

8 A That in no way shape or form was  
9 any pay, deduction of pay, retaliation in  
10 any way meant to be discriminatory or  
11 anything like. I believe it's actually to  
12 the contrary, when Dr. Kaye raised the issue  
13 I think Correctional Health changed the  
14 entire policy in regard to those types of  
15 courses would be on the house or not. I  
16 believe her time was restored and I believe  
17 it's a now accepted practice across the  
18 board for everybody.

19 Q Are you speaking for yourself when  
20 you're saying there was basically no  
21 discriminatory animus or retaliatory animus  
22 that was involved?

23 MS. CANFIELD: Objection as to  
24 form. You can answer.

25 A You're asking if I'm speaking for

1 J. WANGEL

2 myself. Who else would I be speaking for?

3 Q Because the way you said it seemed  
4 like you were speaking for FPECC, senior  
5 management and all the others.

6 A I'm speaking for any myself. I'm  
7 not aware of any other individual taking any  
8 sort action that would be retaliatory.

9 Q Now, has it been your experience  
10 any other doctors or any other licensed  
11 professionals have been docked pay for  
12 taking board examinations?

13 MS. CANFIELD: Objection as to  
14 form. You can answer.

15 A It's difficult to practice I  
16 believe up until that point, was that you  
17 had to use your own time. So if physician  
18 or clinician chose to cover their attendance  
19 that was directly related to their job  
20 function or vocation, they could do that. I  
21 don't remember the specifics of that time  
22 sheet that Dr. Kaye submitted, but for  
23 whatever reason they didn't cover the  
24 attendance with her time. An issue was  
25 raised, change position of CHS across the

1 J. WANGEL

2 boards and she was restored her time.

3 Q Was it ever brought to your  
4 attention that Dr. Kaye was having problems  
5 with inputting her time in Kronos?

6 A Generally, I know there was some  
7 issues. I don't recall the specifics.

8 Q What do you recall?

9 A Hard to say. I remember back and  
10 forth with her and Dr. Jain. Again, it's a  
11 while back. It's hard to remember the exact  
12 issue.

13 Q Well, I guess I can identify you  
14 and help you. At some point Dr. Kaye  
15 alleged that Dr. Jain was changing her time  
16 behind her back. Do you recall something to  
17 that effect?

18 A I do, generally. I don't think  
19 that's what I remember. I don't think  
20 Dr. Jain was trying to do anything malicious  
21 or in any way negatively impact Dr. Kaye. I  
22 think she was just trying to get the time  
23 sheets processed. I think she thought she  
24 was doing the correct thing. I don't  
25 remember exactly what or how judgments

1 J. WANGEL

2 were made though.

3 Q Well, Dr. Kaye alleges that  
4 because of Dr. Jain's actions and her being  
5 banned from the system that she was docked  
6 pay during this period of time, that  
7 Dr. Jain had solo access to her time cards.  
8 Do you recall that?

9 MS. CANFIELD: Objection as to  
10 form. You can answer.

11 A When you say banned from the  
12 system, what do you mean?

13 Q Didn't have access to her, she  
14 didn't have access to any of her time, but  
15 Dr. Jain had solely access.

16 MS. CANFIELD: Objection.

17 A So across the board time keepers  
18 have access, supervisors have access and the  
19 staff members have access. I'm not sure, I  
20 don't recall Dr. Kaye being blocked out.  
21 She should have had access. I don't know  
22 why she wouldn't.

23 Q Well, Dr. Kaye's had ongoing  
24 issues with access to Kronos. I'm going to  
25 show you an exhibit where it's on in Dr.

1 J. WANGEL

2 Kaye's tenure under CHS. But it's  
3 demonstrative of some of the problems she  
4 experienced with Kronos.

5 This will be Plaintiff's Exhibit  
6 34.

7 (Whereupon, Email (NYC\_317-319)  
8 was marked as Plaintiff's  
9 Exhibit 34 for identification as  
10 of this date.)

11 Q And Exhibit 34 -- and I'm going to  
12 share the screen -- bears Bate Stamp series  
13 NYC\_317, NYC\_318 and NYC\_319. You do see  
14 that, right?

15 A I do.

16 Q Go down to the latter part of the  
17 exhibit, and it's from Dr. Kaye to Dr. Jain.  
18 You see this, right?

19 A I do.

20 Q Hi, Beesh. Our Kronos system is  
21 not working in the Bronx. CHS IT people  
22 came today. It's still not up and running  
23 and they said it won't be until they fix our  
24 connectivity. Please let me know how to  
25 process my time until then. Right? And



1 J. WANGEL

2 then Dr. Jain responds to her, I'm getting  
3 some information on how to process. Thanks  
4 for letting me know. Right?

5 And then Dr. Jain gets in contact  
6 with Jessica, I'm assuming this is Jessica  
7 Laboy, would that be fair to say?

8 A Probably.

9 Q Hope you had a nice holiday. You  
10 mentioned there was a way to enter missed  
11 dates for Kronos. Wanted to make sure to  
12 follow up on this for Dr. Kaye. So now he  
13 is entering the time for Dr. Kaye the access  
14 that she has requested; would that be  
15 accurate?

16 MS. CANFIELD: Objection. You  
17 can answer.

18 A I mean to say he's not working on  
19 getting her access, I'm not sure you can  
20 tell that solely from this chain. It seems  
21 like he's trying to help get her time  
22 sheets -- directly.

23 Q Hi, Beesh, I guess this is from  
24 Ms. Laboy, hope you had a nice holiday as  
25 well. Jonathan copied. Will provide you

1 J. WANGEL

2 with information on how to do so. Best,  
3 Jessica.

4 So you're helping him with this  
5 access in Kronos, is that within your job  
6 scope?

7 MS. CANFIELD: Objection as to  
8 form. You can answer.

9 A What was the question?

10 Q Was that within the scope of your  
11 job even at that time?

12 A It could have been. It certainly  
13 would, Kronos was new, right. I was sort of  
14 the -- implementations needed to get  
15 electronic time keeping to CHS. For a  
16 system of our size to still use paper, it is  
17 not a simple undertaken to move to something  
18 that's electronic, especially sites. We  
19 don't run the jails. It's not within our  
20 purview -- very easily there. So any time  
21 you move to a new systems, there's bumps in  
22 the road. So certainly, if I was involved  
23 in time keeping, certainly.

24 Q Now you say, Hi. Dr. Kaye should  
25 have the ability to manually enter time for

1 J. WANGEL

2 any date. If for some reason your not, I'll  
3 check it out tomorrow.

4 Now, did you know for a fact that  
5 Dr. Kaye could actually manually enter her  
6 time?

7 A Well, I can't speak to whether or  
8 not she was saying she couldn't get in or do  
9 whatever it was. I didn't have any personal  
10 knowledge about whether she could or  
11 couldn't have. She should have the ability  
12 to do that. Whether she could actually do  
13 that, that I don't know.

14 Q Is that your testimony today, did  
15 she or anybody else have the ability to  
16 manually input their time?

17 MS. CANFIELD: Objection.

18 Asked and answered. You can answer.

19 A You're asking me whether or not  
20 any employee of CHS should be able to  
21 manually enter their time.

22 Q Right.

23 A No. No.

24 Q Who wouldn't be?

25 A There are different rules, for

1 J. WANGEL

2 different folks depending on the number of  
3 different practices. And you have  
4 management can decide whether or not they  
5 want a manager to manually enter their time  
6 or not -- has a complete different time  
7 keeping system than H&H does. Typical city  
8 rules.

9 Q So Dr. Kaye contends that she  
10 could not manually enter her time. Has that  
11 been your experience.

12 MS. CANFIELD: Objection. you  
13 can answer.

14 A You said continually. I think at  
15 this point --

16 Q I did not say continually. I said  
17 she is contending.

18 COURT REPORTER: Can you  
19 repeat the question.

20 Q Dr. Kaye, is contending that she  
21 did not have the ability to manually enter  
22 her time. I'm asking whether or not that  
23 was common.

24 MS. CANFIELD: Objection as to  
25 form. You can answer.

1 J. WANGEL

2 A Yeah, I mean there were issues  
3 with the roll out across the board. Again,  
4 like I said, this is a brand new electronic  
5 system for a couple of thousand people.  
6 Multiple for dozen of places. Like you  
7 would expect there were some bumps in the  
8 road. We did the best we could to roll it  
9 out as smoothly as possible. And anybody  
10 who had an issue, we tried to correct as  
11 soon as possible.

12 Q Now, Dr. Kaye contends that her  
13 inability to access Kronos was, took place  
14 for a sustained period of time to the  
15 detriment of her compensation.

16 MS. CANFIELD: Objection. Are  
17 you testifying?

18 MS. HAGAN: No, I'm asking him  
19 a question.

20 MS. CANFIELD: Just ask the  
21 question then. You're putting in a  
22 lot of colloquy. You can just move  
23 the deposition by asking him a  
24 question.

25 MS. HAGAN: I'm going to ask

1 J. WANGEL

2 the question.

3 Q So was it your experience that Dr.  
4 Kaye repeatedly had this problem?

5 A Which problem?

6 Q The problem with the access to  
7 Kronos; was this resolved in July of 2018?

8 A I don't recall specifically. I  
9 would imagine it was addressed. I can't say  
10 for sure.

11 Q I'm going to move on then 'cause  
12 you're not sure how it was resolved. Do you  
13 remember if it was ever resolved for Dr.  
14 Kaye?

15 A Again, specifically I don't. But  
16 I can tell you that -- to say that her  
17 compensation was negatively impacted, but I  
18 can tell you that as an annualized salaried  
19 employee, which Dr. Kaye was, even if you  
20 don't submit your time sheet, you still get  
21 your annual paycheck. So it's ordinarily  
22 unlikely that you're pay would be --

23 Q I'm going to show you what will be  
24 marked as Plaintiff's Exhibit 35.

25 (Whereupon, Email (NYC\_974-975))

1 J. WANGEL  
2 was marked as Plaintiff's  
3 Exhibit 35 for identification as  
4 of this date.)

5 Q And Plaintiff's Exhibit 35,  
6 plaintiff's Exhibit 35 bears the Bates stamp  
7 series NYC\_974 and NYC\_975. Do you see  
8 that?

9 A I don't see that.

10 Q Do you see NYC Health Hospitals?

11 A I do see that.

12 Q I wanted to draw your attention to  
13 the beginning of the e-mail thread. It's  
14 from a Justine McGranaghan and it's to a  
15 Carla Phillips. And it says supervisor  
16 change for Dr. Kaye, M. Kaye. Hi, Carla, it  
17 says, I was recently informed that Dr. Kaye  
18 was supposed to be reporting to Dr. Jain.  
19 If PeopleSoft is OHS's only personnel data  
20 source, then disregard, as this data was  
21 corrected in PeopleSoft this morning. I  
22 just wanted to ensure that this supervisor  
23 change has been corrected everywhere  
24 possible. Thank you so much. Best.

25 Now, do you recall Dr. Kaye

1 J. WANGEL

2 raising an issue with Dr. McGranaghan, the  
3 Manhattan Court Clinic Director, being  
4 listed as her supervisor?

5 A Generally yes because the e-mail  
6 you're showing me talks about OHS. And the  
7 e-mail sent by OHS, which typically goes to  
8 a supervisor, that went to Dr. McGranaghan  
9 in lieu of Dr. Jain because the reporting  
10 may have been inaccurate because of whatever  
11 source.

12 Q Did you ever deal with anything or  
13 address the e-mail?

14 MS. CANFIELD: Objection to  
15 form. You can answer.

16 A I am on this e-mail?

17 Q Let's see. Let's scroll up  
18 further. Well, you are, here you are CC'd  
19 on December 3. FYI, just additional  
20 followup regarding Dr. Kaye assigned  
21 supervisor and make sure it's assigned as  
22 me. Thanks, Beesh.

23 You see this right?

24 Now, did there ever come a time  
25 that Dr. Kaye raised a concern to being CC'd



1 J. WANGEL

2 on a e-mail that had her personal  
3 information on it?

4 A I do generally remember that Dr.  
5 Kaye had concerns, yes.

6 Q Did you take any steps to rectify  
7 this situation?

8 A I think that's what was happening  
9 here. Again, it's not a labor function. If  
10 a supervisor of records is in incorrect,  
11 needs to be corrected by HR.

12 Q You're repeatedly saying this is  
13 not a labor function, yet you're on all  
14 these emails, Mr. Wangel. Why is that?

15 A On this I'm copied. I would  
16 imagine they raised the concern to Doctors'  
17 Counsel -- so I'm aware of what's happening.  
18 Looks like they are addressing us here.

19 Q I'm going to show you what's going  
20 to be marked Plaintiff's Exhibit 36.

21 (Whereupon, Email  
22 (NYC\_1283-1284) was marked as  
23 Plaintiff's Exhibit 36 for  
24 identification as of this date.)

25 Q Plaintiff's Exhibit 36 bears the

1 J. WANGEL

2 Bates stamp series NYC\_1283 and 1284. It  
3 starts with an e-mail from Maria Mendez to  
4 Dr. Kaye. It looks like it involves a  
5 request for FMLA/intermittent, as discussed  
6 earlier. She basically says, attached,  
7 please find an approval letter regarding  
8 your request for an intermittent leave of  
9 absence to care for your ill family member.  
10 For any time sheet submitted without the  
11 proper codes, please see the attached  
12 employee time sheet changes. You see that,  
13 right?

14 A I do.

15 Q So then Dr. Kaye then talks about,  
16 she goes into, she thanks you for helping  
17 her complete -- first let me thank you HHC  
18 for completing the processing of my FMLA  
19 today. She talks about the difficult times  
20 that she's experiencing. But then she goes  
21 on and she mentions on at least two prior  
22 occasions Dr. Daniel Mundy was copied on  
23 e-mails that contained my personnel  
24 information. I initially contacted my  
25 supervisor, Dr. Jain in September 2018 who

1 J. WANGEL

2 indicated that he had resolved the matter.  
3 However, when it happened again in December  
4 2018, I contacted you and the other HHC  
5 management about this violation and you  
6 indicated that it had been resolved in  
7 PeopleSoft. So there is a question quite  
8 frankly, Mr. Wangel, what part did you play  
9 in this?

10 A What part did I play in what?

11 Q Well, let's keep going. Ms. Yang  
12 or Dr. Yang then emails you and Jessica  
13 Laboy. And she ask this Yvette or Kevin.  
14 Who supervised Yvette?

15 A Dr. Katz.

16 Q Okay. And who supervises Kevin?

17 A I'm not even sure. Kevin is, I  
18 think he's IT, so it would also be Dr. Katz.  
19 I think if I remember Kevin correctly, he  
20 worked in IT, so I'm pretty sure it's also  
21 Dr. Katz.

22 Q So you're saying that neither you  
23 nor Ms. Laboy supervised Yvette nor Kevin?

24 A That's correct.

25 Q Now, could she have been

1 J. WANGEL

2 referencing Kevin Collins from Doctors'  
3 Council?

4 A Could she have been, sure, but  
5 very unlikely. Doctors' Counsel has nothing  
6 to do with PeopleSoft or any internal  
7 record. I'm almost positive --

8 Q So then Ms. Laboy follow ups  
9 Yvette. And is this Villanueva?

10 A I would say so, yes.

11 Q Is it your testimony that  
12 Ms. Villanueva did not fall under your  
13 purview?

14 A That's correct. That's correct.

15 Q Now, at any point did it come to  
16 your attention that Dr. Kaye had allegations  
17 that her pay was being unfairly docked? We  
18 talked about this earlier that her pay was  
19 docked on two Jewish holidays back to back.  
20 Did ever come to your attention?

21 A I believe it did.

22 Q And what did you do?

23 A What did I do in regards to.

24 Q Well, it was brought to your  
25 attention, did you take any steps to address

1 J. WANGEL

2 the issue?

3 A I believe my recollection is Dr.  
4 Kaye did not want to charge leave or absence  
5 for the holidays she was out because the  
6 holiday were citywide bargaining agreement  
7 and not to charge them.

8 Q Are you saying that the Jewish  
9 holidays that Dr. Kaye took off were not  
10 part of her collective bargaining agreement?

11 A Yes.

12 Q Where does it say in the  
13 collective bargaining that they are not  
14 covered?

15 A It doesn't say which holidays are  
16 included and those are not included.

17 Q And you're certain about that?

18 A As certain as I could be.

19 Q So you went to the collective  
20 bargaining agreement and you found out  
21 specifically that those particular holidays  
22 are not listed in the bargaining agreement  
23 for anyone to take off?

24 A I don't recall actively taking  
25 those steps. Taken off automatically,

1 J. WANGEL

2 presumably, if they were.

3 Q Yon Kippur, the most holy day in  
4 the Jewish calendar is not covered by the  
5 collective bargaining agreement?

6 A You're asking me or telling me?

7 Q I'm asking.

8 A I believe that's correct, yes.

9 Q Oh, that's interesting. Okay.  
10 Now, Dr. Kaye raised some issues about dual  
11 agency as it pertained to, I guess,  
12 Dr. Garcia Mensia in the Bronx. Do you  
13 recall any discussion of that?

14 A No.

15 Q So you don't recall any emails or  
16 any discussion about Dr. Kaye having concern  
17 with Dr. Garcia Mensia being in the Bronx  
18 and supervising Dr. Breighton?

19 A Supervising who, I'm sorry.

20 Q Dr. Breighton?

21 A I don't recall.

22 Q Do you remember Jeff Bloom raising  
23 that issue from Legal Aid Society?

24 A I don't. I don't remember the  
25 details of this.

1 J. WANGEL

2 Q Do you recall anyone from Legal  
3 Aid Society raising concerns about the  
4 presence of third parties in 730 exams?

5 A I really don't. I do not.

6 Q So you don't recall any issues  
7 that Legal Aid Society may have had in the  
8 operations of the court clinics?

9 A I mean if there were, again, this  
10 would not have been a Labor issue. And we  
11 would have gone to FPECC leadership or Dr.  
12 Ford or whom ever.

13 MS. CANFIELD: I'm going to  
14 take a ten-minute break.

15 (Whereupon, a recess was taken  
16 from 4:43 p.m. to 4:57 p.m.)

17 Q Mr. Wangel, we touched on this  
18 earlier today when I was talking about Dr.  
19 Kaye acting in evaluatory capacity and not a  
20 treatment capacity. You do recall that part  
21 of our discussion?

22 A Evaluatory and not a --

23 Q Treatment.

24 A Sure. Yes.

25 Q And you were making a distinction

1 J. WANGEL

2 between inmate and patients, right?

3 A Yes.

4 Q And during the course of our  
5 discussion, not necessarily during the  
6 course of our discussion, but you researched  
7 several topics that pertained to court  
8 clinics during your tenure at CHS; would  
9 that be fair to say?

10 A I don't think so.

11 Q Well, for example, for the private  
12 practice policy, did you play a part in  
13 drafting that?

14 MS. CANFIELD: Objection as to  
15 form. You can answer.

16 A It's possible. I don't recall  
17 specifically. Again, I recall drafting lots  
18 of different things.

19 Q If you were involved, let's say,  
20 in the drafting of that policy, for example,  
21 I would believe as an attorney you would  
22 have done some kind of legal research in  
23 order to opine on any given topic; would  
24 that be the case?

25 MS. CANFIELD: Objection. You



1 J. WANGEL

2 can answer.

3 A Could be. I mean I would say if I  
4 was consulted only for a Labor Relations  
5 issue or topic or lens, possibly. It would  
6 depend why I was involved.

7 Q At any point did the topic of dual  
8 agency, I guess, present itself during the  
9 course of your tenure in CHS?

10 A When you say dual agency, I'm not  
11 exactly sure what you're referring to.

12 Q Well, one of tenants of forensic  
13 psychiatry is that there is a strict  
14 demarcation between treatment and  
15 evaluation. Dr. Kaye was solely an  
16 evaluator. However, in order for the 730  
17 process to have some legitimacy, it's pretty  
18 fundamental tenant of forensic psychiatry  
19 that treatment be isolated from the  
20 evaluation, so in order to avoid what's  
21 known as dual agency.

22 I'm actually am engaging in  
23 colloquy because I want to be sure you're  
24 clear what I'm talking about.

25 A I appreciate it in this instance.

1 J. WANGEL

2 Thank you.

3 Q So, Mr. Wangel, during the course  
4 of your work at CHS, right, did this issue  
5 present itself as it pertained to the court  
6 clinics or any of the court clinics for that  
7 matter?

8 A I do not believe so. Not through  
9 my office. I'm trying to recall a time it  
10 would have. I don't recall it being an  
11 issue for me.

12 Q Now, I'm going to ask you if  
13 you're familiar with a staff person by the  
14 name of Alex Garcia Mensia?

15 A I don't recall that name.

16 Q Now, I guess, Dr. Garcia Mensia is  
17 a psychologist that works in the hospital at  
18 CHS, on Rikers. Are you aware of that?

19 MS. CANFIELD: Objection.

20 A No. And when you say the  
21 hospital, I'm assuming you mean in the jail  
22 some place.

23 Q In the jail, yes.

24 A Right. I don't know the name of  
25 that.

1 J. WANGEL

2 Q She's actually in a treating  
3 capacity, right? Are you aware of that?

4 MS. CANFIELD: Objection. You  
5 can answer.

6 A Again, I'm not familiar with her  
7 or what her title is. Only what you're  
8 telling me.

9 Q To be specific Dr. Garcia Mensia  
10 works at Rikers treating inmates  
11 specifically. Now dual agency frowns upon  
12 the same person treating and evaluating a  
13 given inmate, or in this instance, it would  
14 be either an inmate or patient, as you have  
15 referenced several times throughout this  
16 deposition. So, for example, if Dr. Kaye  
17 was evaluating Inmate A, she could not then  
18 go and treat Inmate A because there would be  
19 a dual agency issue.

20 So I'm bringing up an instance  
21 with Dr. Garcia Mensia because there was an  
22 exchange at one point that involved  
23 Dr. Garcia Mensia being sent to the Bronx.  
24 Do you recall that?

25 MS. CANFIELD: Objection

1 J. WANGEL

2 everything you said before that  
3 question.

4 A I don't.

5 Q Had you ever been contacted by  
6 anyone involving Legal Aid Society objecting  
7 to Dr. Garcia Mensia sitting in on the 730  
8 examination?

9 A I mean I don't recall  
10 specifically. If I was, I probably would  
11 have passed it along to the appropriate  
12 folk.

13 Q So even though you may have been  
14 CC'd on the e-mail involved in a discussion  
15 that dealt with this particular instance,  
16 you're saying that it's your position that  
17 you would have fielded it off to someone  
18 else?

19 MS. CANFIELD: Objection as to  
20 form. He can answer.

21 A I mean it would depend on, if it  
22 was being referred back to me to take some  
23 sort of disciplinary action against a staff  
24 member, then no. But if it was someone  
25 externally raising an issue about what is or

1 J. WANGEL

2 is not appropriate programmatically, I would  
3 have given it to the appropriate clinical  
4 folks to handle the 730 process.

5 Q I'm going to ask you something and  
6 I'm going to kind of backtrack.

7 What is your understanding of  
8 MOCJ's role in the running of the court  
9 clinics?

10 A I'm not super familiar with it.  
11 Again, this was not my role at CHS. There's  
12 whole, units, departments that do this. I  
13 don't know. I'm not the expert here.

14 Q Do you know what MOCJ is?

15 A Yeah. It's the mayor's office. I  
16 know the acronym. I don't know how it  
17 relates to 730 exams. I was not involved in  
18 CHS.

19 Q How often did you engage MOCJ in  
20 the course of your work?

21 MS. CANFIELD: Objection as to  
22 form. You can answer.

23 A If I was at all, it was as an  
24 e-mail bystander. I don't recall any direct  
25 dealings with MOCJ on the 730 process.

1 J. WANGEL

2 Q I'm going to bring your attention  
3 to what's going to be plaintiff's last  
4 exhibit. Plaintiff's Exhibit 37. It bears  
5 the Bates stamp series 1134 and 1135.

6 (Whereupon, Email  
7 (NYC\_1134-1135) was marked as  
8 Plaintiff's Exhibit 37 for  
9 identification as of this date.)

10 Q Can you see what looks like an  
11 Adobe produced document?

12 A I do.

13 Q And I'm going to start at the  
14 beginning of the thread, right. It's an  
15 e-mail from Dr. Jain, who -- Dr. Kaye,  
16 Dr. Mundy, Dr. Owen and Dr. Winkler. And it  
17 is regarding the psychological testing  
18 policy at corrections. Right?

19 It says, thank you for your input  
20 regarding the FPECC psychological testing  
21 policy. You see this, right?

22 A Um-hmm.

23 Q And then there is an e-mail from  
24 Dr. Kaye to Dr. Jain and forward regarding  
25 the policy and Dr. Kaye raises concerns

1 J. WANGEL

2 about the proposed administrative policy  
3 which places restrictions upon MD clinic  
4 directors. That's what Dr. Kaye brought up,  
5 right? Do you recall seeing the  
6 psychological testing policy, Mr. Wangel?

7 A Not specifically. It's possible,  
8 but I don't recall specifically.

9 Q Did you participate in drafting  
10 the policy in any way?

11 A I don't believe so.

12 Q So then Dr. Kaye raises another  
13 issue. Another issue with the involvement  
14 with Dr. Alex Garcia. We already had an  
15 instance which Legal Aid challenged what was  
16 perceived to be an impropriety in the exam  
17 process when Dr. Garcia sought to become  
18 involved in forensic evaluations while  
19 actively in the role of a treatment  
20 supervision of Rikers Island clinical staff.  
21 And you see this now, right?

22 A Um-hmm.

23 Q And do you vaguely remember  
24 anything that had to do with these types of  
25 allegations regarding Dr. Garcia Mensia?

1 J. WANGEL

2 A I don't know. I don't.

3 Q So then Dr. Jain says the response  
4 is not surprising from Dr. Kaye and similar  
5 to what I'm anticipated yesterday. I don't  
6 feel pressure to respond to her e-mail  
7 immediately especially because you and I  
8 were both CC'd and I already responded to  
9 her previous emails about this. If you  
10 think it's appropriate, I can reply with you  
11 CC'd, something along the lines of what I  
12 sent you yesterday. That these are good  
13 points that we've considered, and the  
14 purpose of this policy is not reviewing or  
15 approving individual testing request.

16 Then Dr. Jain talks about, it was  
17 also brought to his attention today either  
18 this policy or a discussion of this policy  
19 was being circulated.

20 So this was the discussion that we  
21 talked about earlier that prompted as least  
22 one of the e-mail investigation that you  
23 were engaged. Would that be accurate, Mr.  
24 Wangel?

25 A Yeah, it certainly could be.



1 J. WANGEL

2 Again, like I said, to do an e-mail search  
3 for specific terms of a specific document it  
4 would have to be an expert on the 730  
5 process or -- either compensation, so it's  
6 very possibly.

7 Q Now, you mentioned at one point  
8 that Dr. Kaye's emails contained or at least  
9 the e-mails that were subject to the  
10 investigation were found to be in violation  
11 of the acceptable use policy, involved the,  
12 I guess, the transmittal of confidential or  
13 sensitive information. And in this instance  
14 Dr. Jain is referring to a draft policy.  
15 How would you determine that was either  
16 confidential or sensitive?

17 A It would depend on the substance  
18 of it. Based on a draft that were not final  
19 policy. You have to take there were  
20 separate cases on the city. Hard to say  
21 exactly. Without seeing it again, I don't  
22 recall.

23 Q And you don't recall what happened  
24 here. We weren't able to establish if Dr.  
25 Kaye if there was a written report that was

1 J. WANGEL

2 written I guess in the culmination of your  
3 investigation.

4 Was there a report after you  
5 monitored Dr. Kaye's e-mail address, e-mail  
6 box?

7 MS. CANFIELD: Objection as to  
8 form. You can answer.

9 A Again, if there was no -- no  
10 formal discipline was taken against Dr.  
11 Kaye. So there were no charges with the  
12 investigation had rose to that level or not  
13 receiving discipline, then likely no.

14 Q Did you discuss the content of  
15 your investigation or the subject of your  
16 investigation with Dr. Yang?

17 A Possibly. But do I recall  
18 specifically, no.

19 Q Did you discuss it with Dr. Jain?

20 A No, less likely. But again, I  
21 don't recall.

22 Q Dr. Ford?

23 A Same answer. She's in the middle.  
24 More likely to Jain less likely to -- I  
25 don't recall specifically.

1 J. WANGEL

2 MS. HAGAN: Well, I'm actually  
3 done. I'm going to -- if Ms.  
4 Canfield has any followup questions,  
5 I yield the floor to her at this  
6 particular time.

7 MS. CANFIELD: I don't have  
8 any followup questions. We are  
9 finished.

10 (Whereupon, this examination was  
11 concluded at 5:14 p.m.)  
12  
13

14 \_\_\_\_\_

15 JONATHAN WANGEL

16

17

18 Subscribed and sworn to  
19 before me on this \_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

20

21 \_\_\_\_\_  
Notary Public

22

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2

## I N D E X

3

WITNESS: JONATHAN WANGEL

4

EXAMINATION BY

PAGE

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MR. HAGAN

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## E X H I B I T S

8

PLAINTIFF'S

DESCRIPTION

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C E R T I F I C A T E

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I, KIARA MILLER,

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A Shorthand Reporter and Notary Public of the

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State of New York, do hereby certify:

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That the witness whose examination is

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hereinbefore set forth, was duly sworn or

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affirmed by me, and the foregoing transcript is

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a true record of the testimony given by such

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witness.

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I further certify that I am not related to any

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of the parties to this action by blood or

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marriage, and that I am in no way interested in

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the outcome of this matter.

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KIARA MILLER

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